THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

FEDERAL REGISTER

VOLUME 14 NUMBER 109

Washington, Wednesday, June 8, 1949

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

Subchapter B—Federal Farm Loan System

PART 10—FEDERAL LAND BANKS GENERALLY

SECURITY STANDARDS

Section 10.2 of Title 6 of the Code of Federal Regulations, as amended (14 F. R. 2683) is hereby revoked; and § 10.2 of Title 6 of the Code of Federal Regulations (1949 ed.) is hereby reinstated.

(Sec. 6, 47 Stat. 14; 12 U. S. C. 665. E. O. 6084, Mar. 27, 1933. Applies sec. 12 "Fifth", 39 Stat. 371, as amended by sec. 4 (c), 59 Stat. 267; 12 U. S. C. 771 "Fifth")

[SEAL] J. R. ISLEIB,
Land Bank Commissioner.

[F. R. Doc. 49-4614; Filed, June 7, 1949; 8:55 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

Subchapter B—Statements of General Policy or Interpretation Not Directly Related to Regulations

PART 778—OVERTIME COMPENSATION

"SHOW-UP" AND "CALL-BACK" PAY

§ 778.4 *"Show-up" and "call-back" pay.* (a) Under some employment agreements, an employee may be paid a minimum of a specified number of hours' pay at the applicable straight-time or overtime rate on infrequent and sporadic occasions when, after reporting to work at his scheduled starting time on a regular workday or on another day on which he has been scheduled to work, he is not provided with the expected amount of work. This is commonly referred to as "show-up" or "reporting" pay. Under the principles and subject to the conditions set forth in Interpretative Bulletin No. 4, paragraph 70 (8) and in release PR-161, (§§ 778.1 to 778.3), that portion of such payment which represents compensation at the applicable rates for the straight-time or overtime hours actually worked, if any, during such period may be credited as straight-time or overtime compensation, as the case may be, in computing overtime compensation due under the act. The amount by which the specified number of hours' pay exceeds such compensation for the hours actually worked is considered as a payment that is not made for hours worked. As such, it may be excluded from the computation of the employee's regular rate and cannot be credited toward statutory overtime compensation due him.

To illustrate, assume that an employee whose workweek begins on Monday and who is paid $1.00 an hour reports for work on Monday according to schedule and is sent home after being given only 2 hours of work. He then works 8 hours each day on Tuesday through Saturday, inclusive, making a total of 42 hours for the week. The employment agreement covering the employees in the plant, who normally work 8 hours a day, Monday through Friday, provides that an employee reporting for scheduled work on any day will receive a minimum of 4 hours' work or pay. The employee thus receives not only the $2.00 earned in the 2 hours of work on Monday but an extra 2 hours' "show-up" pay, or $2.00 by reason of this agreement. However, since this $2.00 in "show-up" pay is not regarded as compensation for hours worked, the employee's regular rate remains $1.00 and the overtime requirements of the act are satisfied if he receives, in addition to the $42 straight-time pay for 42 hours and the $2.00 "show-up" payment, the sum of $1.00 as extra compensation for the 2 hours of overtime work on Saturday.

(b) In the interest of simplicity and uniformity, these principles by which the Administrator has been guided with respect to "show-up" or "reporting" pay will be applied also, in the future, with respect to typical minimum "call-back" or "call-out" payments made pursuant to employment agreements. Typically, such minimum payments consist of a specified number of hours' pay at the applicable straight-time or overtime rates which an employee receives on infrequent and sporadic occasions when, after his scheduled hours of work have ended and without prearrangement, he responds to a call from his employer to perform extra work.

The application of these principles to call-back payments may be illustrated

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

as follows: An employment agreement provides a minimum of 3 hours' pay at time and one-half for any employee called back to work outside his scheduled hours. The employees covered by the agreement normally work 8 hours each day, Monday through Friday, inclusive, in a workweek beginning on Monday, and are paid overtime compensation at time and one-half for all hours worked in excess of 8 in any day or 40 in any workweek. Assume that an employee covered by this agreement and paid at the rate of $1.00 an hour works 1 hour overtime or a total of 9 hours on Monday, and works 8 hours each on Tuesday through

Friday, inclusive. After he has gone home on Friday evening he is called back to perform an emergency job. His hours worked on the call total 2 hours and he receives 3 hours' pay at time and one-half, or $4.50, under the call-back provision, in addition to $40 for working his regular schedule and $1.50 for the overtime worked on Monday evening.

In computing overtime compensation due this employee under the act, the 43 actual hours (not 44) are counted as worked during the week. In addition to $43 pay at the $1.00 rate for all these hours, he has received under the agreement a premium of 50 cents for the one overtime hour on Monday and of $1.00 for the 2 hours of overtime work on the call, plus an extra sum of $1.50 paid by reason of the provision for minimum call-back pay. For purposes of the act, the $1.50 in premiums paid for actual hours of overtime work on Monday and on the Friday call may be excluded as true overtime premiums in computing his regular rate for the week and may be credited toward overtime compensation due under the act, but the extra $1.50 received under the call-back provision is not regarded as paid for hours worked, may be excluded from the regular rate, and cannot be credited toward overtime compensation due under the act. The regular rate of the employee, therefore, remains $1.00, and he has received an overtime premium of 50 cents an hour for 3 overtime hours of work. This satisfies the requirements of section 7 of the act. The same would be true, of course, if, in the foregoing example, the employee was called back outside his scheduled hours for the 2-hour emergency job on another night of the week or on Saturday or Sunday, instead of on Friday night.

(c) The Administrator will apply the principles stated in paragraphs (a) and (b) of this section in carrying out his administrative duties under the act, unless and until he is directed otherwise by authoritative decisions of the courts. To the extent that prior administrative rulings, interpretations, practices, and enforcement policies are in conflict with paragraphs (a) and (b), they are hereby withdrawn and will not be followed. (Sec. 3 (a), 60 Stat. 238; 5 U. S. C. 1002 (a))

Signed at Washington, D. C., this 3d day of June 1949.

F. GRANVILLE GRIMES, Jr.,
Acting Administrator.

[F. R. Doc. 49-4604; Filed, June 7, 1949; 8:51 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Regulations,[1] Amdt. 103]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, Item 67a, is amended to read as follows:

Name of defense-rental area	State	County or counties in defense-rental areas under rent regulation for controlled housing	Maximum rent date	Effective date of regulation	Date by which registration statement to be filed (inclusive)
(67a) Americus	Georgia	Sumter	Mar. 1, 1942	Nov. 1, 1943	Dec. 15, 1943

This recontrols under §§ 825.1 to 825.12 the Americus, Georgia, Defense-Rental Area which was heretofore decontrolled as of April 5, 1949.

2. A new Item 51 is hereby incorporated in Schedule B to read as follows:

51. Provisions relating to Americus, Georgia, Defense-Rental Area.

Recontrol of Americus, Georgia, Defense-Rental Area. Effective June 3, 1949, the provisions of §§ 825.1 to 825.12 shall apply to housing accommodations in the Americus, Georgia, Defense-Rental Area, which was heretofore decontrolled as of April 5, 1949, except as modified by the following provisions:

a. All orders in effect on April 4, 1949, in accordance with §§ 825.1 to 825.12, shall be of full force and effect.

b. If, on June 3, 1949, there was a ground for adjustment under § 825.5 (a) for which no order had previously been issued, and a petition for adjustment is filed on or before July 3, 1949, the adjustment shall be effective as of June 3, 1949.

c. If, on June 3, 1949, the services provided with any housing accommodations are less than the minimum required by § 825.3, the landlord shall either restore and maintain such minimum services or file a petition on or before July 3, 1949, requesting approval of the decreased services. If, on June 3, 1949, the furniture, furnishings or equipment provided with any housing accommodations are less than the minimum required by § 825.3, the landlord shall file, on or before July 3, 1949, a written report showing the decrease in furniture, furnishings or equipment. Except as modified by this paragraph "c", the provisions of § 825.5 (b) shall be applicable to all such cases.

d. In the case of any action which, on June 3, 1949, was required or authorized by §§ 825.1 to 825.12 to be taken within a specified period of time, the same time period shall be applicable, but such time period shall be counted from June 3, 1949.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204 (i) 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (i))

This amendment shall become effective June 3, 1949.

Issued this 3d day of June 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-4616; Filed, June 7, 1949; 8:55 a. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Regs.,[1] Amdt. 98]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is amended in the following respects:

1. Schedule A, Item 67a, is amended to read as follows:

Name of defense-rental area	State	County or counties in defense-rental areas under rent regulation for hotels and rooming houses	Maximum rent date	Effective date of regulation	Date by which registration statement to be filed (inclusive)
(67a) Americus	Georgia	Sumter	Mar. 1, 1942	Nov. 1, 1943	Dec. 15, 1943

This recontrols under §§ 825.81 to 825.92 the Americus, Georgia, Defense-Rental Area which was heretofore decontrolled as of April 5, 1949.

2. A new Item 51 is hereby incorporated in Schedule B to read as follows:

51. Provisions relating to Americus, Georgia, Defense-Rental Area.

Recontrol of Americus, Georgia, Defense-Rental Area. Effective June 3, 1949, the provisions of §§ 825.81 to 825.92 shall apply to housing accommodations in the Americus, Georgia, Defense-Rental Area, which was heretofore decontrolled as of April 5, 1949, except as modified by the following provisions:

a. All orders in effect on April 4, 1949, in accordance with §§ 825.81 to 825.92, shall be of full force and effect.

b. If, on June 3, 1949, there was a ground for adjustment under § 825.85 (a) for which no order had previously been issued, and a petition for adjustment is filed on or before July 3, 1949, the adjustment shall be effective as of June 3, 1949.

c. If, on June 3, 1949, the services provided with any housing accommodations are less than the minimum required by § 825.83, the landlord shall either restore and maintain such minimum services or file a petition on or before July 3, 1949, requesting approval of the decreased services. If, on June 3,

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 695, 856, 918, 979, 1005, 1083, 1345, 1394, 1519, 1570, 1571, 1587, 1666, 1667, 1733, 1760, 1823, 1868, 1932, 2059, 2060, 2084, 2176, 2233, 2412, 2441, 2545, 2607, 2608, 2695, 2746, 2761, 2796.

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 8218, 8328; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345, 1520, 1570, 1582, 1587, 1669, 1670, 1734, 1869, 1932, 2061, 2062, 2085, 2177, 2237, 2413, 2440, 2441, 2545, 2607, 2608, 2695, 2746, 2762, 2796.

1949, the furniture, furnishings or equipment provided with any housing accommodations are less than the minimum required by § 825.83, the landlord shall file, on or before July 3, 1949, a written report showing the decrease in furniture, furnishings or equipment. Except as modified by this paragraph "c", the provisions of § 825.85 (b) shall be applicable to all such cases.

d. In the case of any action which, on June 3, 1949, was required or authorized by §§ 825.81 to 825.92 to be taken within a specified period of time, the same time period shall be applicable, but such time period shall be counted from June 3, 1949.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204 (i), 61 Stat. 197, as amended, 62 Stat 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (i))

This amendment shall become effective June 3, 1949.

Issued this 3d day of June 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-4617; Filed, June 7, 1949; 8:55 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter IV—Joint Regulations of the Armed Forces

Subchapter D—Military Renegotiation Regulations

[Amdt. 1]

MISCELLANEOUS AMENDMENTS AND CORRECTIONS

Miscellaneous amendments and corrections of the following parts of this subchapter: Part 421—Authority and organization for renegotiation; Part 422—Procedure for renegotiation; Part 423—Determination of renegotiable business and costs; Part 424—Determination and elimination of excessive profits; Part 427—Military renegotiation forms.

PART 421—AUTHORITY AND ORGANIZATION FOR RENEGOTIATION

This part is amended and corrected in the following respects:

1. In § 421.108–1 *Mandatory filing of statement*, the cross reference to § 422.220 is corrected to read: "§§ 422.222–1 to 422.222–7."

2. Section 421.109–2 (b) is amended to read as follows:

(b) *Orders.* A determination of excessive profits made by a Division by unilateral order may be reviewed by the Policy and Review Board upon its own motion and will be reviewed by the Policy and Review Board if the contractor so requests. Unless the Policy and Review Board, upon its own motion, initiates a review of a unilateral determination of excessive profits within 60 days from the date of such determination or unless the contractor or subcontractor requests such review within 60 days from the date of such determination, such determination becomes final.

3. Section 421.110 is amended to read as follows:

§ 421.110 *Redetermination of excessive profits by the Tax Court of the United States.* The act provides that any contractor or subcontractor aggrieved by a unilateral determination of excessive profits may petition the Tax Court of the United States for a redetermination of such excessive profits. Proceedings before the Tax Court are de novo. The Court may find an amount of excessive profits less than, equal to, or greater than the amount found by the Policy and Review Board. The petition for a redetermination must be made to the Tax Court within ninety days after the unilateral order becomes final. The decision of the Tax Court is subject to review by the Circuit Court of Appeals or the United States Court of Appeals for the District of Columbia. (See Subpart B of Part 426 of this subchapter.)

4. Paragraph (l) of § 421.122 is amended to read as follows:

(l) The term "mandatory statement" means the contractor's report discussed in §§ 422.222 to 422.222–7 of this subchapter.

5. Section 421.123 *Organization* is amended to read as follows:

§ 421.123–1 *Organization.*

PART 422—PROCEDURE FOR RENEGOTIATION

This part is amended and corrected in the following respects:

1. In § 422.206 (b), the cross reference to § 425.508 is corrected to read "§ 425.508–3."

2. In § 422.222–2 (a), the cross reference to § 427.703 is corrected to read "§ 427.702–1."

3. In § 422.242, the cross reference to §§ 422.220 to 422.222 is corrected to read "§§ 422.222 to 422.222–7".

4. In § 422.245, the cross reference to § 426.624 is corrected to read "§§ 426.604 to 426.604–3."

5. In § 422.246–2, paragraph (d) is amended to read as follows:

(d) Afford the contractor a hearing before the Policy and Review Board, if requested.

6. In § 422.246–2, the following paragraph is added at the end of this section:

The review will be conducted by the Board members other than the member who made the determination being reviewed, and the determination of such members shall be the determination of the Board.

7. Section 422.247 is amended to read as follows:

§ 422.247 *Review not initiated.* If no review is initiated by the Policy and Review Board of the agreement described in § 422.244–1 within the time specified in § 422.246–2 or if it sooner notifies the Division of its approval of such agreement, the agreement shall be executed on behalf of the United States by the Chairman of the Division.

8. In § 422.248, the title has been changed by the deletion of the words "and administration of agreements" and by the deletion of the last sentence in the section. This section is therefore amended to read as follows:

§ 422.248 *Statement to contractor.* Subpart B of Part 425 of this subchapter deals with the preparation of the statement to the contractor.

9. In § 422.262–3, the cross reference to § 422.201 (b) is corrected to read: "§ 422.261 (b)."

10. In § 422.266, the cross reference to §§ 422.260–422.266 is corrected to read: "§§ 422.261 to 422.265."

PART 423—DETERMINATION OF RENEGOTIABLE BUSINESS AND COSTS

This part is amended in the following respects:

1. Section 423.304 is amended to read as follows:

§ 423.304 *Cost - plus - fixed - fee contracts.* Amounts received or accrued, and costs paid or incurred, with respect to cost-plus-fixed-fee contracts and subcontracts must be segregated from such amounts relating to other types of contracts and subcontracts, in order that separate consideration may be given in renegotiation of such cost-plus-fixed-fee contracts.

2. Section 423.340 (b) is corrected to read as follows:

(b) The Secretary, in his discretion, may exempt "any other contract or subcontract both individually and by general classes or types." Such exemptions, generally referred to as "permissive exemptions," are described in Subpart E of this part.

3. In § 423.387–2, in the third sentence of the first paragraph the word "property" should read "properly." The sentence is therefore amended to read as follows: "The renegotiating agency shall also allocate to renegotiable business the properly allocable portion of expense incurred in "Help Wanted" advertising and the properly allocable portion of expense incurred by the contractor or subcontractor in advertising in trade papers for the purpose of offering support to such trade papers which are valuable for the dissemination of technical information within the contractor's or subcontractor's industry."

4. In § 423.388–1 (c), the cross reference to § 423.334–3 is corrected to read: "§ 423.334–1".

PART 424—DETERMINATION AND ELIMINATION OF EXCESSIVE PROFITS

This part is amended and corrected in the following respects:

1. In § 424.422–3 (b), cross references are corrected as follows: Reference to § 425.502–5 (h) is corrected to read "§ 425.502–5 (c)"; reference to § 428.807 is corrected to read "§ 428.861".

2. In § 424.424, the cross reference to § 426.626 is corrected to read: "Subpart A of Part 426".

3. In § 424.441–2, the cross reference to § 428.808–1 is corrected to read "§ 428.831".

4. In § 424.443–1 (c), corrections in cross references in this paragraph make it read as follows:

(c) For the tax effect of renegotiation for periods for which Federal income

tax returns have not been filed, see I. T. 3577, I. T. 3611, and I. T. 3671 at §§ 428.832, 428.833 and 428.834 of this subchapter.

5. In § 424.443–2, the cross reference to § 424.443–2 (c) is corrected to read: "§ 424.443–1 (c)".

PART 427—MILITARY RENEGOTIATION FORMS

This part is amended in the following respects:

1. In § 427.704, subparagraph (c) of paragraph 1 in Section L is amended to read as follows:

(c) Changes in original cost estimates;

2. In § 427.704–1 (b), a correction in punctuation makes the subparagraph captioned *"Depreciation (line 30 (a) to (d), inclusive"*, read as follows:

Depreciation (line 30 (a) to (d), inclusive). The total amount of depreciation expenses (including depletion) should be accumulated under this caption, regardless of the accounts to which it may be charged on the contractor's books, and reconciled in a separate schedule with the total amount deducted for purposes of Federal income taxes.

(62 Stat. 259, sec. 3 (f), Pub. Law 547, 80th Cong.)

Adopted: June 1, 1949.

FRANK L. ROBERTS,
Chairman,
Military Renegotiation Policy and Review Board.

Approved: June 2, 1949.

LOUIS JOHNSON,
Secretary of Defense.

[F. R. Doc. 49–4601; Filed, June 7, 1949; 8:50 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 64—DOMESTIC INSURANCE AND COLLECT-ON-DELIVERY SERVICES: INDEMNITY

C. O. D. TAG

In § 64.27 *C. o. d. tag* (13 F. R. 8982) add a new paragraph (d) to read as follows:

(d) Receipts on c. o. d. tags shall be obtained from senders for all c. o. d. mail returned to them as undelivered matter. Such c. o. d. mail shall not be charged to carriers, nor shall collection be made of the c. o. d. charges.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25, sec. 8, 37 Stat. 558, as amended; 5 U. S. C. 22, 369, 39 U. S. C. 244)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49–4581; Filed, June 7, 1949; 8:47 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

AIR-MAIL SERVICE

In § 127.20 *Air-mail service* (13 F. R. 9081) amend paragraph (f) to read as follows:

(f) (1) Offices of mailing shall exercise every precaution to assure the detection of shortpaid air mail articles before they are sent to the United States exchange office of dispatch.

(2) If the office of mailing observes an unregistered air mail Postal Union article to be insufficiently prepaid and the return address on the article is at the office of mailing, or if it bears a return address other than at the office of mailing and it weighs 4 ounces or less, it shall be returned to the sender (by air if practicable) for the necessary postage. If the article bears a return address other than at the office of mailing and weighs over 4 ounces it shall be sent by air to the United States exchange office of dispatch. If the article bears no return address, it shall be sent by air to the United States exchange office of dispatch, regardless of its weight, provided it bears at least 25 per cent of the required air mail postage: otherwise the air-mail markings shall be canceled and the article endorsed "Not in Air Mail" and forwarded by surface means.

(3) If the office of mailing observes a registered air mail Postal Union article to be insufficiently prepaid and the return address on the article is at the office of mailing, the missing postage shall be supplied before the article is dispatched. If the article bears a return address other than at the office of mailing it shall be sent to the appropriate United States exchange office. In case an insufficiently prepaid air-mail article reaches the exchange office it must be treated as prescribed in paragraph (c), § 127.29.

(4) When air-mail articles returned for additional postage are subsequently remailed, the stamps originally affixed will be accepted to the amount of their face value.

(5) The weight of the card prepared as the return receipt of a registered air-mail article must not be included with the weight of the article in determining the postage required.

(6) See § 127.80 regarding the treatment of shortpaid air parcel-post packages.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49–4583; Filed, June 7, 1949; 8:47 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

EXPORT DECLARATIONS AND LICENSES

Amend § 127.85 *Export declarations* (13 F. R. 9097) to read as follows:

§ 127.85 *Export declarations and licenses.* (a) In order to enable the Department of Commerce to enforce the export control laws and to compile statistics of commercial exports by regular mail or parcel post (surface or air), postmasters at first-, second-, and third-class offices will require business concerns sending merchandise valued at $25 and over to other business concerns:

(1) From continental United States, Alaska, Hawaii, Puerto Rico, or the Virgin Islands of the United States to any foreign country and to the Canal Zone;

(2) From continental United States to its noncontiguous territories or possessions[1] except Alaska and Hawaii; and

(3) From Puerto Rico or the Virgin Islands of the United States to continental United States;

to fill out a Shipper's Export Declaration on Department of Commerce Form 7525–V. The Shipper's Export Declaration is only required for goods mailed for commercial purposes and not for goods which involve no commercial consideration. (However, Commerce Form 7525–V must also be filed for shipments of all articles covered by a validated export license from the Office of International Trade, Department of Commerce, regardless of value or whether the sender or addressee is a business concern. See paragraphs (h) and (i) of this section.) The declaration need not be furnished for catalogs, instruction books (except technical data), and other advertising matter, or for magazines, newspapers, and periodicals, which are not regarded as merchandise.

(b) The following are the only items on the Shipper's Export Declaration (Commerce Form 7525–V) which are required to be filled in by the sender of a postal shipment (the numbers indicated correspond with those appearing on the form):

(2) Name of post office where shipment is being mailed. (Insert in space on the form reading "From ------ (U. S. port of export).").

(3) Name and address of sender (exporter or forwarding agent). (If the shipment is being mailed by a forwarding agent, the name and address of the exporter, his principal, must also be shown.)

(5) Name and address of addressee (ultimate consignee and intermediate consignee, if any).

(8) Country of final destination.

(10) Number of packages being mailed; description of merchandise and export license number and expiration date, or general license symbol.

(13) Schedule B commodity number.

(14) Net quantity of merchandise, in Schedule B units.

(15) Value of merchandise.

(c) The Shipper's export declaration is prepared in duplicate for shipments to all foreign countries except Canada. Only a single copy is required for shipments to Canada. A declaration or set of declarations may include any number of packages mailed by one sender on the same day to the same ultimate or intermediate consignee in the same country. It is not necessary that the declaration be notarized.

(d) The description of contents and units of quantity must be in the detail required by Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United

[1] Noncontiguous territories and possessions: Alaska, Puerto Rico, Virgin Islands of the United States, Hawaii, Guam, Samoa, Canton and Enderbury Islands, Johnston, Midway, Palmyra, and Wake Islands.

States. Shippers may obtain copies of Schedule B for a nominal charge from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., from Collectors of Customs, or from Department of Commerce field offices located in the principal cities of the United States. General descriptions such as dry goods, groceries, millinery, and the like, are not sufficient. Quantities and values should be given in whole numbers only, omitting fractions of less than one-half and counting one-half and over as a whole.

(e) Completed declarations should be postmarked in the lower left-hand corner of the form at the office of mailing, and the original and duplicate declarations disposed of as follows:

Original—Send to:
New York Office,
Foreign Trade Division,
Bureau of the Census,
Room 434, Customhouse,
New York 4, N. Y.
Duplicate—Send to:[2]
Commodities Division,
Office of International Trade,
Department of Commerce,
Washington 25, D. C.

(f) Declarations should be mailed daily from first-class post offices, and from second- and third-class offices whenever there is enough accumulated to fill an envelope but in any case not less frequently than once a week.

(g) Postmasters may obtain a free supply of Form 7525–V, for limited distribution to occasional shippers only, from the Foreign Trade Division, Bureau of the Census, Washington 25, D. C. Requests by mailers for this form from postmasters would be limited in accordance with the provision stated above. Regular exporters may obtain copies of the Shipper's Export Declaration from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., from Collectors of Customs, or from Department of Commerce field offices at a cost of 50 cents per block of 100. They may be printed by private parties provided they conform to the official form in size, wording, color, quality (weight) of paper stock, and arrangement.

(h) In accordance with the export control regulations of the Office of International Trade, Department of Commerce, Washington 25, D. C., exporters of merchandise requiring individual export licenses must surrender the licenses at the Post Office when the relative shipments are mailed. Postmasters will require accepting employees to endorse these licenses on the back with the word "Completed" and to apply a legible postmark showing the date and place of mailing. The licenses are to be transmitted under official cover to the Office of International Trade, Export Operations Division, Department of Commerce, Washington 25, D. C. Where only partial shipment of the total quantity licensed is made, the amount actually shipped shall be entered on the reverse side of the license and the license returned to the shipper.

(i) Post Offices will not undertake to advise prospective mailers of articles and materials requiring an individual export license. Senders desiring information relative to export control requirements (including both general and individual licenses) are to be advised to communicate with any of the Department of Commerce field offices or directly with the Export Operations Division, Office of International Trade, Department of Commerce, Washington 25, D. C. Questions relating to shipper's export declarations and commodity export classification are to be submitted directly by exporters to the Foreign Trade Division, Bureau of the Census, Washington 25, D. C., for decision. Questions by postmasters concerning the above are to be submitted to the Deputy Second Assistant Postmaster General, International Postal Service, if international mail is involved, or to the Third Assistant Postmaster General, Division of Letter and Miscellaneous Mail, if domestic mail is involved. (R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49–4582; Filed, June 7, 1949; 8:47 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

CHINA, ISRAEL, AND KOREA

1. In § 127.231 *China (including Taiwan (Formosa) and the leased territory of Kwangehowwan (Fort Bayard))* (13 F. R. 9130) make the following changes:

a. Amend paragraph (a) *Regular mails* to read as follows:

(a) *Regular mails.* Service is suspended for all mails, surface and air, except for regular mails addressed for delivery in the provinces of Fukien, Kwangtung and Kwangsi.

b. Amend paragraph (b) *Parcel post (China)* to read as follows:

(b) *Parcel post.* All parcel post service to China is suspended.

c. Amend paragraph (c) *U. S. A. gift parcels (China)* to read as follows:

(c) *U. S. A. gift parcels.* All gift parcel service to China is suspended.

2. In § 127.282 *Israel (State of)* (13 F. R. 9173) amend subparagraph (7) of paragraph (a) to read as follows:

(7) *Observations.* See paragraph (b) (4) in this section concerning import license requirements which are also applicable to goods sent in the regular mails.

(i) Mail service to the State of Israel may include articles addressed to any place in the former Mandated Territory of Palestine except places now under Arab control.

(ii) Although Jerusalem is not considered a part of the State of Israel, mail for that city is accepted and sent via Israel. Articles may be addressed to "Jerusalem, via Israel."

3. In § 127.288 *Korea* (13 F. R. 9178), amend subparagraph (1) of paragraph (c) to read as follows:

(1) *Table of rates.* (Surface only.)

Pounds	*Rate*	*Pounds*	*Rate*
1	$0.06	12	$0.72
2	.12	13	.78
3	.18	14	.84
4	.24	15	.90
5	.30	16	.96
6	.36	17	1.02
7	.42	18	1.08
8	.48	19	1.14
9	.54	20	1.20
10	.60	21	1.26
11	.66	22	1.32

NOTE: The weight limit and other tabulated information following the postage rates in paragraph (b) (1), of this section, are also applicable to "U. S. A. gift parcels."

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49–4579; Filed, June 7, 1949; 8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

NIGERIA AND PANAMA

1. In § 127.318 *Nigeria* (13 F. R. 9196) amend subdivision (iii) of subparagraph (4), paragraph (b) to read as follows:

(iii) Import licenses must be obtained by the addressees for all parcels except bona fide unsolicited gifts. The words "Unsolicited Gift" must be plainly marked on the wrapper and customs declaration of every such parcel.

2. In § 127.324 *Panama* (13 F. R. 9199) amend subdivision (i) of subparagraph (6), paragraph (b) to read as follows:

(6) *Observations.* (i) For shipments of a commercial nature, the sender must prepare four copies of a commercial invoice and send them to the addressee under separate cover. Each copy must bear the following declaration in Spanish, signed by the sender: "Conste bajo la gravedad del juramento, con la firma puesta al pie de esta declaracion, que todos y cada uno de los datos expresados enesta factura son exactos y verdaderos, y que la suma total declarada es la misma en que se han vendido las mercaderias." (It is declared, under oath, by the signature at the end of this declaration, that each and every one of the statements made in this invoice is correct and true, and that the total amount declared therein is that for which the goods were sold.)

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49–4534; Filed, June 7, 1949; 8:47 a. m.]

[2] Not required for Canada.

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE AND INSTRUCTIONS FOR MAILING

PHILIPPINES

In § 127.329 *Philippines (Republic of the)* (13 F. R. 9201) make the following changes:

1. Amend subparagraph (2) of paragraph (a) to read as follows:

(2) *Registration.* Fee, 25 cents. (See §§ 127.15 and 127.101.)

2. Delete subdivision (ii) of subparagraph (7), paragraph (a) and the list of offices appearing therein.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49-4580; Filed, June 7, 1949; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 989]

[Docket No. AO-198]

HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps., 900.1 et seq.; 13 F. R. 8585), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of raisins produced from raisin variety grapes grown in California. Such marketing agreement and order would be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). Interested parties may file exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 1846, South Building, Washington 25, D. C. Any exception should be filed in quadruplicate, and must be received prior to the close of business on the fourteenth day after publication of this recommended decision in the FEDERAL REGISTER.

Preliminary statement. A public hearing, on the record of which the presently proposed marketing agreement and order (hereinafter called the "order") were formulated, was held at Fresno, California, December 13 to 16, 1948, inclusive. Such hearing was held pursuant to a notice thereof which was published in the FEDERAL REGISTER (13 F. R. 6884) on November 23, 1948, as corrected in the FEDERAL REGISTER (13 F. R. 7308) which was published on November 30, 1948. Said notice contained a draft of a proposed order which had been presented to the Secretary of Agriculture (hereinafter called the "Secretary") by the Raisin Working Committee, a committee of California raisin producers and handlers, with a petition for a hearing thereon. The objective of such proposal is to bring to the raisin industry of California the benefits of the Agricultural Marketing Agreement Act of 1937, as amended.

The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance.

(2) The need for the proposed regulatory program to accomplish the declared objectives of the act.

(3) The provisions which should be incorporated in the proposed order, such as:

(a) Defining such terms as "Secretary," "act," "person," "area," "raisin variety grapes," "raisins," "bleached raisins," "Golden Bleached raisins," "natural condition raisins," "packed raisins," "varietal type," "producer," "dehydrator," "processor," "pack," "packer," "handler," "acquire," "board," "committee," "ton," "crop year," "district," and "file;"

(b) Establishing and maintaining an advisory board to serve in that capacity to the administrative committee to conduct the program operations, assigning duties to such board, and providing for its manner of conducting business;

(c) Establishing and maintaining an administrative committee to conduct the program operations, granting powers and duties to such committee, and providing for its manner of conducting business;

(d) Providing for the formulation and adoption by the administrative committee of a marketing policy for each crop year, and the recommending by it to the Secretary of the regulation of raisins for such crop year by the prescribing of percentages for free tonnage, reserve tonnage, and surplus tonnage, respectively, the prescribing of such percentages by the Secretary, and providing in some detail for the manner in which the quantities represented by the several percentages shall be handled in each crop year;

(e) Providing for the records which handlers shall keep, the reports which handlers shall file, and for the verification of such reports;

(f) Providing for the incurring of expenses each crop year, and the assessments to be imposed in that connection; and

(g) Providing for certain additional provisions, as set forth in §§ 989.7 to 989.14 as published in the FEDERAL REGISTER (13 F. R. 6884, 6889) on November 23, 1948, which are common to marketing agreements and marketing orders, and of certain other provisions, as set forth in §§ 989.15 to 989.17 which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The proposed program should regulate all raisins acquired by handlers, whether the raisins ultimately move in intrastate, interstate, or foreign commerce. The raisin supply is to be divided into free tonnage, reserve tonnage, and surplus tonnage, at the time such fruit is acquired by handlers. If the program should apply only to raisins moving to interstate and foreign destinations and not to raisins consumed in intrastate markets, the division of the raisin supply into the three aforesaid categories would be impracticable at the time handlers acquire the fruit, because they then generally do not know its final destination. Further, if the program should not apply to intrastate commerce in raisins, part of the supply permitted to move uncontrolled in intrastate commerce very likely thereafter would move out of California, but would not be regulated under the program.

The production of raisins in California constitutes the commercial raisin production of the United States. Average annual production of raisins in California for the 1946 and 1947 crop years was about 234,000 tons, packed weight, of which 35 percent was exported and not more than 10 percent moved in intrastate commerce. The remainder moved in interstate commerce. The great preponderance of the California raisin production is, therefore, shipped to interstate and foreign markets.

(2) The California raisin industry was confronted with surpluses and experienced economic distress for more than a decade prior to World War II, although commercial exports of raisins during that period were substantial. For the five-year period, 1934–1938, such exports averaged 61,000 tons, or about 28 percent of the domestic raisin production. Notwithstanding assistance rendered by the United States Government, and the reasonably large export movement, prices received by producers for raisins did not equal parity at any time during the prewar decade, but ranged from 53 percent of parity in 1938 to 88 percent of parity in 1941.

The situation changed radically during the war. Since raisins have a high food value in proportion to their weight, they were in great demand for overseas shipment. Use of raisin variety grapes for wine and brandy was restricted, and packers were required to set aside speci-

fied percentages of their raisins for Government disposition. Prices received by producers rose rapidly, reaching 169 percent of parity in 1944. In 1946, a year of relatively small raisin production, such prices rose to 202 percent of parity. Total acreage of raisin variety grapes in California expanded from 253,561 acres in 1941 to 271,691 acres in 1947. For the past four years, 1945–1948, production of raisin variety grapes in California has averaged in excess of 1,600,000 fresh tons, as compared with an average for the five years, 1934–1938, of slightly less than 1,200,000 tons.

In 1946, the year of peak prices, a much larger than normal percentage of raisin variety grapes was crushed for wine and brandy. Large wine inventories were carried over into the 1947 season, so that a smaller proportion of the raisin variety grapes was crushed that season and a larger proportion was converted to raisins. Normal production of raisins had increased, as evidenced by an average production of 237,500 tons for the four years, 1945–1948, compared with an average production of 218,600 tons for the prewar period, 1934–1938. Commercial exports of raisins, including those to Canada, dropped, however, from an average of 61,000 tons for the 1934–1938 period to an average of approximately 41,000 tons for 1946 and 1947. The domestic outlets for raisin variety grapes in all forms have not expanded enough to absorb the greater production and offset the reduction in commercial exports of raisins. There has been substantial increase in domestic wine consumption, but domestic consumption of raisins, the most important outlet for raisin variety grapes, has not kept pace with population increase.

The lack of usual demand by vintners for raisin variety grapes of the 1947 crop, increased production of raisins, excessive trade inventories of raisins, and curtailed commercial exports caused raisin prices to producers to decline sharply from $312 per ton, or 202 percent of parity in 1946, to $132 per ton, or 76 percent of parity in 1947. This severe drop in prices adversely affected the welfare of raisin variety grape producers. A greater decline in prices would have occurred if the Government had not purchased nearly 119,000 tons of raisins from the 1947 supply. This surplus condition was not temporary. Despite a 1948 production of raisins which was 27 percent less than that of 1947, it has been necessary for the Government to purchase for price support purposes in excess of 59,000 tons of raisins, in order to assure producers a farm price comparable to that received by them in 1947. Commercial exports of raisins from the 1948 crop, although subsidized in part, are expected to total far less than those from the 1946 or 1947 production. Preliminary returns for the 1948 crop indicate producers will receive approximately $134 per ton for raisins, as compared with an average parity price of $174 per ton for the first six months of the 1948 season.

Barring unforeseen circumstances, such as unfavorable weather conditions, raisin production in 1949, and for some time to come, will exceed the quantity which can be marketed in normal domestic and foreign commercial outlets at prices remunerative to producers. Attempts to force into those outlets a quantity of raisins much in excess of their normal requirements would cause marked shrinkage in both prices and returns to producers. The supply of raisins available for disposition in such outlets should be restricted to a volume which conforms with commercial distributive requirements and the excess should be disposed of in channels not competitive with normal commercial outlets. In this way, producers would be benefited by higher average prices and greater aggregate returns for their raisins than would be the case in the absence of such control. This would be true even if the surplus should be salvaged at low values, because the demand for raisins is inelastic at volumes equivalent to current levels of production. Effective control of the surplus also would equalize among producers the burden of such surplus. The order is designed to establish orderly marketing conditions for raisins and to accomplish the foregoing results in conformity with the Agricultural Marketing Agreement Act of 1937, as amended.

(3) (a) Certain terms, applying to specific individuals, agencies, legislation, concepts, or things, are used throughout the order. Those terms should be defined to designate specifically their applicability, and to establish appropriate limitations of their meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with general supervision over such programs, but also, in order to recognize the fact that it is physically impossible for him to perform personally all of the functions and duties imposed upon him by law, it should include any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to perform the duties of the Secretary. The definition of "act" gives the legal citation for the statute pursuant to which regulatory programs of this nature are operated. The definition of "person" follows the definition of that term as set forth in the act.

"Area" should be defined to mean the State of California. Commercial raisin production in the United States is confined to this State, and, by reason of unfavorable climatic and soil conditions, it does not appear probable that such production will later develop on any appreciable commercial scale in other States. While raisins are produced primarily in Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties, they are also produced commercially to a limited extent in other counties of California. Also, in other counties of the State, raisin variety grapes are grown which are not normally converted into raisins but which might be so converted if it became profitable to do so. Raisin variety grapes are grown on a commercial scale in about 40 of the 58 counties of California. Further, raisins could be produced in some of the counties where raisin variety grapes are not now grown. It would not be practicable to regulate the handling of raisins in any part of the area without applying the same regulation to the remaining parts of such area, inasmuch as, in such an event, raisins could be produced and handled in the uncovered portion free from any or all restrictions. There are no differences in the production and marketing of raisins which would require different terms for one portion of the State as compared with other portions. The issuance of several orders for each of the several portions of the State where raisins are produced would be impracticable and would not effectively carry out the declared policy of the act. Under the foregoing circumstances, it is desirable from the standpoint of reasonably effective regulation, for the entire State of California to be included in the area. It is concluded, therefore, that the State of California, considered as a unit, constitutes the smallest practicable area, consistently with the carrying out of the declared policy of the act and for the purposes of the order.

"Raisin variety grapes" should be defined to mean and include grapes of the Thompson Seedless (or Sultanina), Muscat of Alexandria (or Muscat), Muscatel Gordo Blanco (or Muscat), Black Corinth (or Zante Currant), White Corinth (or Zante Currant), and Seedless Sultana (or Sultana), varieties grown in the area. These varieties of grapes comprise all of the varieties from which raisins are produced in any appreciable volume in the area. A relatively small quantity of Black Minukka grapes are dried, but but the public demand for such dried grapes has been very limited. A number of the other varieties of grapes develop a fairly high sugar content and could be dried. However, experience has demonstrated that grapes of these varieties in dried form are not generally acceptable to the public. None of the other varieties at this time appears to have qualities which might cause dried grapes produced from them to be accepted in preference to raisins produced from the varieties proposed to be included, and from such latter varieties are produced practically all of the raisins which are sold commercially.

It was proposed that the term "raisins" be defined to mean any raisin variety grapes from which a part of the natural moisture has been removed. It would not be practicable to specify how much moisture should be removed from grapes before they should be considered as raisins because the moisture content of natural condition raisins varies considerably. Moreover, if such a maximum moisture content should be specified, it might be possible for persons to circumvent the intended regulations by adding moisture to the raisins so as to bring the moisture content thereof slightly above the maximum prescribed. However, it is not intended that raisin variety grapes will be considered raisins prior to the time they are removed from the vines, even though they may lose some moisture content while on the vines. Conversely, it is intended that such grapes will be considered raisins if they have been removed from the vines and lose part of their natural moisture due

to sun-drying or artificial dehydration. It is concluded, therefore, that the term "raisins" should be defined to mean any raisin variety grapes from which a part of the natural moisture has been removed by sun-drying or artificial dehydration after such grapes have been removed from the vines.

The types of bleached raisins include those which are generally known as soda dipped and sulfur bleached raisins, and Valencia Muscat raisins. Some of these are produced by soda dipping, either with or without the use of oil, and they are either sun-dried or artificially dehydrated. Others are produced by both soda dipping and sulfuring, and they are always sun-dried. Therefore, it is concluded that the proposed definition of the term "bleached raisins" should be defined to cover (i) any raisins which have been produced by soda dipping, with or without oil, whether sun-dried or artificially dehydrated, or (ii) any raisins which have been produced by soda dipping, sulfuring, and sun-drying.

It is concluded that the term "Golden Bleached raisins," which is generally considered by the trade as a type of bleached raisin which is in a separate and distinct category from bleached raisins generally, should be defined to mean raisins, the production of which includes soda dipping, sulfuring, and artificial dehydration. Golden Bleached raisins are produced in those counties where weather conditions make production of raisins by sun-drying hazardous, primarily in Merced, Stanislaus, and San Joaquin Counties. The production methods differ principally from those described in (ii) of the proposed definition of "bleached raisins" in that the production of Golden Bleached raisins includes artificial dehydration rather than sun-drying.

The term "natural condition raisins" should be defined to mean raisins, the production of which includes sun-drying or artificial dehydration, with or without bleaching, but which have not been further processed to a point where they meet the conditions for "packed raisins." The principal purpose of the definition is to distinguish raisins in their natural condition form from packed raisins. This distinction is necessary in the reserve and surplus pooling provisions relating to handlers' deliveries of raisins, either as natural condition raisins or as packed raisins. The term is intended to describe the condition of raisins at the time they are delivered to handlers by producers. Production of natural condition raisins includes functions in addition to sun-drying and drying by artificial heat. For example, raisins may be bleached. Further, they may be put in sweat boxes (in which they are generally delivered to handlers) after sun-drying or dehydration to obtain greater uniformity of moisture content. The term "natural condition raisins" is well understood in the raisin industry and the proposed definition conforms with this general understanding.

The term "packed raisins" should be defined to mean raisins which have been stemmed, graded, sorted, cleaned, or seeded, and placed in any container customarily used in the marketing of raisins or in any container suitable or usable for such marketing. In general, the term "packed raisins" signifies raisins which are ready to move in trade channels for human consumption. The operation used to produce packed raisins vary depending on the varietal types, the marketing containers, and the requirements of different users. It is not intended that all of the steps outlined in this definition be performed for the raisins to qualify as packed raisins. It is intended that the performance of any one or more of the preparatory steps, together with packaging, will bring the raisins into the category of packed raisins. Many different types of containers are used in packing raisins for movement into marketing channels, and it is necessary that the proposed definition cover raisins that are placed in any container customarily used in the marketing of raisins or any container which may be used for such marketing.

The term "varietal type" should be defined to mean natural (sun-dried) Thompson Seedless, natural (sun-dried) Muscat, natural (sun-dried) Sultana, natural (sun-dried) Zante Currant, artificially dehydrated Sultana, artificially dehydrated Zante Currant, Layer Muscat, Golden Bleached, Sulfur Bleached, Soda Dipped, or Valencia raisins. The need for defining the term arises from the order provisions which would permit firing separately for each varietal type, the percentage thereof which would determine, respectively, the free, reserve, and surplus tonnages of each varietal type. The definition is intended to include the different types and varieties of raisins produced in the area. The definition has been changed from that proposed at the hearing by the addition of three other varietal types which are produced in the area, namely, artificially dehydrated Sultana, natural (sun-dried) Zante Currant, and artificially dehydrated Zante Currant.

The term "producer" was proposed to be defined to mean any person engaged in the business of producing raisins. A definition of "producer" is necessary in connection with determining the eligibility to participate in voting for the nominees for members and alternate members of the advisory board. The definition should be changed to cover any person who is engaged in the business of producing raisin variety grapes. From 55 to 75 percent of the total production of raisin variety grapes is used in the producetion of raisins. However, producers of raisin variety grapes may, and often do, dispose of their grapes in one or more of the three principal outlets, depending on which appears most likely to offer the greatest returns. Thus, many producers who disposed of their grape crops one year for table use as grapes or for crushing, could decide in a subsequent year to convert their grapes into raisins, or vice versa. In view of this, and particularly since the raisin producers vary from year to year, most producers of raisin variety grapes are potential (if not actual) producers of raisins, and, therefore, producers of raisin variety grapes are considered as having such an interest in the order as to warrant the inclusion of them as producers. Evidence indicates also that the term "producer" should be limited to those persons who have an ownership or proprietary interest in the production of raisin variety grapes. In view of the foregoing, it is concluded that the term "producer" should be defined as meaning any person engaged, in a proprietary capacity, in the production of raisin variety grapes.

The term "dehydrator" should be defined to mean any person who produces raisins by dehydrating raisin variety grapes by means of artificial heat. The term is used in those provisions of the order, relating to the advisory board and the administrative committee. For reasons stated in the discussion of the term "handler," it is not intended that a dehydrator, in his capacity as a dehydrator only, will be considered as a handler.

The term "processor" should be defined to mean any person who acquires natural condition raisins and uses them within the area, with or without other ingredients, in the production of a product, other than raisins, for market or distribution. Natural condition raisins are used in making wine, brandy, and syrup, and may be used in making confectionery products, bakery goods, or other beverages. It is necessary that the persons procuring natural condition raisins for these purposes be defined, as otherwise these disposal channels for such raisins would not be covered by the order.

The term "pack" was proposed to be defined as meaning "to perform the function of a packer." The definition of the term "packer," however, includes the functions performed by such person. Therefore, the definition of the term "pack" should be deleted since it would serve no useful purpose in provisions of the order.

The term "packer" should be defined to mean any person who acquires natural condition raisins and within the area stems, grades, sorts, cleans, or seeds them, and packages them for market as raisins. The generally accepted meaning of the term "packer" is one who handles natural condition raisins and prepares them for distribution as raisins through regular marketing channels, as distinguished from a person, defined in the proposal as a "processor," who acquires natural condition raisins for use in the manufacture of a different product. These two classes of persons, namely, packers and processors, would be handlers subject to regulation under the order. The setting aside of reserve and surplus raisins would be accomplished by them when they first acquire the natural condition raisins. When a person acquires such raisins, performs any one of the functions of grading, stemming, sorting, cleaning or seeding raisins, and, in addition thereto, packages them for market, he would be a packer.

The term "handler" should be defined to mean any processor or packer, or any person who ships natural condition raisins out of the area. Processors and packers are two classes of persons which acquire raisins from producers, process such raisins, and dispose of them to the public, either as raisins or as another

product. It is necessary, therefore, that the order should apply to both classes.

It was developed that the notice of hearing proposal would not have made the order applicable to persons who might ship natural condition raisins out of the area. Since unrestricted shipments of such raisins would tend to defeat the purposes of the order, the definition of the term "handler" has been revised to include any such person in addition to processors and packers. Thus, any person who ships natural condition raisins out of the area would not be relieved from complying with the order.

Dehydrators, in their capacity as such, do not dispose of raisins to the public, but merely convert raisin variety grapes into raisins by artificial dehydration. The raisins are subsequently acquired by processors and packers. It is concluded that dehydrators, in their capacity as such, should not be subjected to the order restrictions, and, therefore, they should not be included under the term "handler."

The term "acquire" should mean to obtain possession of raisins by the first handler thereof. The significance of the term "acquire" should be considered in light of the definition of "handler" (and related definitions of "packer" and "processor"), in that the regulatory features of the order would apply to any handler who acquires raisins. Regulation should take place at the point in the marketing channel where a handler first obtains possession of raisins, so that the regulatory provisions of the order concerning the handling of raisins would apply only once to the same raisins. Numerous ways by which handlers might acquire raisins were proposed for inclusion in the definition of the term, the objective being to make sure that all raisins coming within the scope of handlers' functions were covered and, conversely, to prevent a way being available whereby a portion of the raisins handled in the area would not be covered. Some of the ways by which a handler might obtain possession of raisins include: (i) Receiving them from producers, dehydrators, or others, whether by purchase, contract, or by arrangement for toll packing, or packing for a cash consideration; or (ii) by sun-drying or artificially dehydrating grapes. It is thus evident that the term "acquire" should cover the different ways of obtaining possession of natural condition raisins by the first handler thereof, and that the term should be defined so as to accomplish that purpose.

The term "board" should mean the Raisin Advisory Board, and the term "committee" should mean the Raisin Administrative Committee, the two agencies proposed to be established under the order. The use of these terms will shorten the references to these two agencies wherever they are referred to in the order.

The term "ton" should be defined as being a short ton of 2,000 pounds. This is the unit of weight generally used domestically. All persons engaged in the industry are familiar with it.

The term "crop year" should be defined to mean the 12-month period beginning with August 15 of any year and ending with August 14 of the following year: *Provided*, That the initial crop year shall begin with the effective time hereof. From the standpoint of the producers and the handlers of raisins, the crop year traditionally begins when raisin variety grapes ripen, which is usually about August 15. However, since a major portion of the raisins are produced by sun-drying, a period of about six weeks usually elapses after ripening before raisins produced from such grapes begin to move to market in any considerable volume. Therefore, the fixing of the beginning of the crop year as of August 15 should provide a date by which the prospects for the new crop and the attendant general economic conditions will be fairly well-known, and it should also provide a reasonably adequate period for determining the regulation, if any, which should be put into effect for the then current marketing season.

The term "district" should be defined to mean any one of the geographical areas referred to in subparagraph (1) of paragraph (a) of § 989.2 of the order, and specified in Exhibit A to the order. The term will be used to designate geographical segments of the area which are to be delimited for the purpose of providing equitable distribution of producer representation on the board, and, in turn, on the committee.

The term "file" should mean transmit or deliver to the Secretary or committee, as the case may be, and such act should be deemed to have been accomplished at the time: (i) Of actual receipt by the Secretary or committee in the event of personal delivery; (ii) of receipt at the office of the telegraph company, in case submission is by telegram; or (iii) shown by the postmark, in case submission is by mail. It is necessary that a definite means of determination in this regard be provided so that all persons may know whether they are complying with the requirement times for filing, and it is concluded that the foregoing definition would accomplish that result most satisfactorily for all persons.

(b) A board of persons should be selected by the Secretary to advise the committee, and to nominate to the Secretary, persons for members and alternate members of the committee. Such board should be known as the "Raisin Advisory Board" to reflect its advisory character. It should be composed of 46 members, so as to provide adequate representation of producers, packers, dehydrators, and processors, of whom 36 should represent producers, seven should represent packers, two should represent dehydrators, and one should represent processors. Since the burden of surplus control would be borne by producers and the over-all objective of the program would be to improve total returns to producers, their representation on the committee should predominate. Representation of the business categories (i. e., packers, dehydrators, and processors) would be desirable particularly in order that the program may have the benefit of their collective specialized information and experience, and the proposed division of representation in that regard would be in general proportion to their respective general interests in raisins. Packers have historically grouped themselves into four segments, namely, cooperative packers, and small, medium, and large packers which are not cooperatives. This division should be recognized in according the packer representation.

The 36 producer members should be distributed over the area in the numbers and for the several districts described in Exhibit A which is attached to and made a part of the order. These districts should be delineated on a basis which would give raisin variety grape producers therein equitable representation.

The order should contain provisions relating to term of office, nominations, eligibility of members, selection, duties, and procedure, and such other provisions as would be necessary for the establishment and operation of the board.

Since nominees for members and alternate members of the board would be determined by popular vote of the several groups entitled to representation, and since the Secretary would select members and alternate members from such nominees or from other persons in each respective group, the membership of the board would be qualified to nominate to the Secretary members and alternate members of the committee and to serve as members and alternate members of the committee if selected by the Secretary. Such method of nominating and selecting members and alternate members of the committee would be practicable and simple, and is desired by the industry.

(c) There should be established an agency to administer the order, designated as the "Raisin Administrative Committee" to reflect its administrative character. It should be composed of 14 members, of whom eight should represent producers (one of whom should be a producer of raisin variety grapes used in the production of Golden Bleached raisins), four should represent packers, one should represent dehydrators, and one should represent processors. Such a committee would give adequate representation to all segments of the industry, and would not be unwieldy. A portion of the raisins produced are of the Golden Bleached type, and the producers of grapes used in the production of these raisins should be represented on the committee.

Packers historically have grouped themselves into four segments, namely, cooperative packers, and small, medium, and large packers other than cooperatives. Each such group should have separate representation on the committee. Packers agreed that each of the following groups should have one member: (i) Cooperative marketing associations and cooperative organizations engaged in the business of packing raisins, but the person selected should be associated with such an organization which packed not less than 10 percent of the total raisin pack of the preceding crop year; (ii) packers other than cooperatives, each of whom packed not more than four percent of the total raisin pack of the pre-

ceding crop year; (iii) packers other than cooperatives, each of whom packed more than four percent, but not more than six and one-half percent, of the total raisin pack of the preceding crop year; and (iv) packers other than cooperative, each of whom packed more than six and one-half percent of the total raisin pack of the preceding crop year. Such representation would be fair and equitable.

Members and alternate members of the committee should each serve for a term of one year ending May 31, or for any additional period needed for the selection and qualification of his successor. Nominations for the initial members and alternate members of the committee should be certified by the board to the Secretary not later than 10 calendar days after the establishment of such board. Nominations for successor members and alternate members of the committee should be certified by the board to the Secretary not later than May 5 immediately preceding the term for which they are to be selected. The initial board members cannot be selected and qualified until after the order becomes effective, and until this has occurred, obviously the board cannot make nominations for members and alternate members of the committee. A period of 10 days after the board is established would provide ample time for this purpose. With respect to the board's nominations of successor members and alternate members of the committee, it was proposed that such nominations be certified to the Secretary within "five days after the assumption of office by the new members of the board annually selected by the Secretary." This proposal is rejected because uncertainty would result each year as to the exact date on which such nominations are required to be submitted, inasmuch as members of the board would not be regarded as having assumed office until they had filed acceptance thereof, which would presumably be on varying dates for the new members. It is concluded that the board could and should certify such nominations to the Secretary by May 5.

The term of office of the committee membership should be one year in order that the industry, through the board, would have the opportunity to express its approval or disapproval of the committee's membership within relatively short periods of time.

The producer members of the board should nominate, from among the board's producer members and their alternates, eight persons for members and eight persons for alternate members on the committee. One of such persons and his alternate should be producers of grapes used in the production of Golden Bleached raisins. The packer members of the board should nominate, from among the board's packer members and their alternates, four persons for members and four persons for alternate members on the committee, but such nominations should be made on the basis of one member each and one alternate member each for cooperative packers, and small, medium, and large packers other than cooperative packers, respectively. The dehydrator members of the board should nominate, from among the board's dehydrator members and their alternates, one person for member and one person for alternate member on the committee. The one processor member of the board should nominate, from the processor member and processor alternate member of the board, one person for the processor member position on the committee and an alternate for such person. In order that the board may have a greater freedom of choice in nominating candidates to serve on the committee, the members of the board should be permitted to nominate either members or alternate members of the board to serve as members on the committee, and to nominate either members or alternate members of the board to serve as alternate members of the committee.

The members and alternate members of the board are to be nominated by plurality vote of the several groups in the industry, each group nominating its respective representatives. The personnel of the board would be an industry reservoir of persons from which the committee members and alternates could be selected.

Each person selected by the Secretary as a member or alternate member of the committee should, prior to serving on the committee, qualify by filing a written acceptance with the Secretary within 10 calendar days after being notified of such selection. Such action is desirable to provide evidence in writing that the selectee has accepted such position. It was proposed that such acceptance should be filed within 15 days after notification. However, 10 days should be adequate for this purpose, particularly since, under the definition of the term "file," the transmittal time would not be counted as a part of the period.

The members of the board and of the committee, and the alternate members thereof when acting in the place of such members, should serve without compensation, but they should be allowed their necessary expenses as approved by the committee. It was indicated that the persons selected would be willing to serve without compensation, and that producers would object to such compensation.

The powers of the committee should be those which are set forth in section 8c (7) (C) of the act, and are necessary for an administrative agency of this nature to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other regulatory programs of this character. It is intended that any scientific studies conducted by the committee will be confined to those factors which would be reasonably necessary for the committee to perform its duties efficiently. Among these are the factors which the committee would consider in formulating its recommendations of the percentages for free, reserve, and surplus tonnages, which would be fixed for any crop year. In making public pronouncements of the places and times of its meetings, the committee would be expected to publicize such information through the usual media, such as the radio and newspapers serving the area.

All decisions of the committee should be by majority vote of the members present, and the presence of nine members should be required to constitute a quorum. Such a quorum would insure that, at every meeting, at least one of the members present would represent at least one group other than the producer group.

Other provisions relating to the establishment and operation of the committee are set forth in the order. The need for these provisions is believed to be obvious and discussion of them unnecessary.

(d) The committee should hold a meeting in advance of each crop year to formulate and adopt its marketing policy therefor, and submit to the Secretary a report on such policy. The report should include, with other pertinent information, a statement of the committee's regulatory plans for the ensuing crop year, and appropriate analyses of the factors affecting the supply of, and the demand for, raisins, during such year, as well as the pertinent recommendations of the board. The committee should be authorized to modify its original policy, when changing conditions so warrant.

The establishment of a marketing policy prior to each crop year would benefit producers, dehydrators, handlers, and persons in the trade. They would thereby be informed in advance of the regulatory measures proposed to be put in effect, and could then plan their operations accordingly. The report would also be helpful to the Secretary in determining what regulation of raisins is required during the particular crop year.

Such a meeting should be held not later than July 5 before the particular crop year, except, with respect to the first crop year, it should be held as soon as is practicable after the order is made effective. The date of July 5 should be early enough to permit the committee to prepare and file its report with the Secretary, for him to consider its contents in determining what regulation should be put into effect, and to make the regulation effective about August 15. The committee should prepare and file its report not later than 10 days after the marketing policy meeting, which should be sufficient time for it to do so.

The committee should give reasonable advance notice to producers, dehydrators, and handlers of its meetings to consider proposed marketing policies and of any modifications thereof, and each such meeting should be open to them. The committee should also give to such persons reasonable notice of each marketing policy report, or any modification thereof, submitted to the Secretary, and copies of all such reports should be maintained in the committee's office, where they should be made available for examination by the aforesaid interested persons. The manner of notice should be reasonably designed to acquaint all interested persons with such meetings, and with the details of the marketing policy, and should include publication of the notice in newspapers having general circulation in the area. The foregoing notice and open meeting re-

quirements are desirable in order that the committee may have the benefit of the views of the different segments of the industry and the industry may be made promptly aware of the committee's actions.

It is anticipated that the order would be operative only during crop years when the estimated season average price for raisins is not in excess of the parity price for the then current season. Such regulation would include the fixing of a free tonnage which handlers may sell without restriction in the normal channels of trade, a surplus tonnage which must be disposed of in channels not competitive with the normal channels of trade, and a reserve tonnage which would be available, during a specified period, for use in meeting deficiencies in the original estimates of supply or of normal trade requirements, after which period any remainder must be handled or disposed of the same as the surplus tonnage. In other words, the free tonnage, as adjusted by any quantity which might subsequently be released from the reserve tonnage to meet the aforesaid deficiencies, is intended to be the supply made available and needed for sale in normal market channels, consistent with the declared policy of the act.

Since the committee's membership would represent the segments of the industry which are actively engaged in the producing and marketing of raisins, it would be in an especially favorable position to make estimations relative to the supply of, and demand for, raisins, which would be of assistance to the Secretary in making his determinations as required by the order. Therefore, the committee should submit to the Secretary for each crop year, along with its marketing policy report or as soon after such submission as is practicable, its and the board's recommendations as to the respective percentages which should be fixed. In determining upon its percentage recommendations, the committee should consider and analyze the following pertinent estimated factors: (i) The supply of raisins, which would comprise the carry-overs of raisins from preceding crop years held by producers and handlers and the tonnage of raisins to be produced in such crop year; (ii) the trade demand for raisins in normal market channels, both domestic and foreign; (iii) the current prices being received for raisins by producers and handlers; (iv) the trend and level of consumer income; (v) present and prospective price trends for raisins; and (vi) other pertinent economic and marketing factors relative to raisins.

The committee should file with the Secretary, along with its report on marketing policy and its recommendation relative to free, reserve, and surplus percentages, a verbatim record of that portion of its meetings relating to these matters.

Whenever the Secretary should find from the recommendation and supporting information supplied by the committee, or from any other available information, that to designate the percentages of raisins acquired by handlers during any crop year which should be free tonnage, reserve tonnage, and surplus tonnage, respectively, would tend to effectuate the declared policy of the act, he should so designate such percentages.

The free tonnage percentage should result in an adequate quantity of raisins which could be sold in normal trade channels at prices which would tend to effectuate the declared policy of the act. The free tonnage should not be a quantity so low as to result in a scarcity of raisins and inflationary prices, nor should it be an excessive quantity which would create depressed prices.

The reserve percentage should result in a reserve tonnage of such a quantity as would be deemed necessary for the correction of supply and demand estimates. If it is not needed to supplement the free tonnage, it should be held in reserve until June 1. On that date and thereafter, it should be treated as surplus. Thus, all of the reserve tonnage would be used eventually either as free tonnage or surplus tonnage.

The committee should give producers, dehydrators, and handlers the same notice of meetings, opportunity to participate in such meetings, and information regarding its pertinent recommendations submitted to the Secretary as it gives them in connection with the formulation and adoption of its marketing policy. The Secretary should notify the committee promptly of the percentages fixed, and the committee, in turn, should give prompt notice thereof to producers, dehydrators, and handlers by media reasonably designed to accomplish that objective, including, but not necessarily limited to, written notice by registered mail to each handler of whom the committee has a record.

Provision should be made for recommendation by the committee, and for designation by the Secretary, whenever it is deemed desirable, of separate free, reserve, and surplus percentages for each varietal type. This provision would be necessary because the supply of, and the demand for, a particular varietal type may be different from other varietal types in a particular crop year, so that a scarcity in one varietal type might result even though there is an over-all surplus. If the same percentages should be applied to handlers' acquisitions of all varietal types under such conditions, unnecessary hardships might result, not only to the raisin industry, but also to the trade and the buying public.

Representatives of the Golden Bleached raisin segment of the raisin industry proposed at the hearing that the following provision be added to the order:

> In carrying out the duties hereinabove set forth, the committee shall give special consideration to the situation with reference to Golden Bleached raisins and may provide for specific percentages of such raisins which shall go into the free tonnage, reserve pool, and surplus pool, respectively. The committee shall confer with a committee of producers of raisin variety grapes used in the production of Golden Bleached raisins to consider the percentage of such raisins to be recommended as free tonnage, reserve tonnage, and surplus tonnage, in arriving at its conclusion and making its recommendations.

In support of the inclusion of the quoted provision, it was testified that Golden Bleached raisins are so different from other raisins, with respect to their production, handling, and demand, as to necessitate special treatment of them. These differences have been recognized in the order by considering Golden Bleached raisins as a separate varietal type, and, in that connection, special percentages may be fixed for them without incorporating the above-quoted provision. No provision in the order would prevent a group of producers of raisin variety grapes used in the production of Golden Bleached raisins or any other group of producers from conferring with the committee to consider its recommendation relative to percentages. In fact, the order specifically provides that committee meetings for the purpose of considering marketing policy and percentages shall be open to producers, dehydrators, and handlers. In view of the foregoing, it is concluded that the proposal should be denied.

If the committee should deem it desirable that any designation by the Secretary of the free, reserve, or surplus percentages be modified, suspended, or terminated, it should submit to him its recommendation and the information on the basis of which such recommendation was made. If the Secretary should find from such recommendation and supporting information supplied by the committee, or from any other available information, that modification, suspension, or termination of any such designation would tend to effectuate the declared policy of the act, he should act accordingly. The proponents recommended at the hearing that the committee be required to make any such recommendation not later than October 15 of any crop year. It is concluded that this proposal should be denied. In view of the possibility that unforeseen emergencies might develop in any crop year after October 15, it is not believed advisable to restrict the committee's authority to recommend, at any time, the modification, suspension, or termination of such percentages.

The free, reserve, and surplus percentages designated for the first crop year under the order should not apply to raisins produced prior to August 15, 1949. Any carryover of 1948 crop raisins held by handlers when the order is made effective would not be subject to the set aside percentages in any event, because such percentages would be applied only to handlers' subsequent acquisitions. It would be inequitable to producers, therefore, to impose the order restrictions on any 1948 crop raisins acquired from them by handlers after the effective date of the order.

It was proposed at the hearing by a representative of a comparatively small group of producers that, before applying the applicable reserve and surplus percentages to the production of any producer, there should be exempted from such production at least 40 tons of raisins, or the production normally to be expected from about 20 to 30 acres of raisin variety grapes. In support of this proposal, it was argued that small producers need this advantage in order to pay operating expenses and support their families, and that the larger producers

could more easily afford to carry the additional surplus burden. The record indicates that the great majority of the producers in the area operate raisin variety grape acreages of 20 or less, and have an average production of less than 40 tons of raisins. The indicated surplus of raisins is such as would require a fairly high percentage of the raisin production to be placed in the reserve and surplus pools. The suggested exemption for each producer would result in too severe a burden on the large producers. If the above proposal should be put into effect, it is doubtful that the entire production of the larger producers (minus the individual 40-ton exemptions) would be sufficient to enable the required amount of surplus to be set aside. Therefore, the proposal is denied.

The order should specify that the percentage of raisins acquired by a handler as free tonnage may be disposed of by him free of any restrictions, except for the payment of assessments thereon, the filing of reports, and the keeping of records with respect thereto. The reasons for the restrictions specified are given hereinafter in connection with the discussions relating to assessments, reports, and records.

Reserve and surplus tonnages acquired by each handler should be held by him for the account of the committee, which would have the responsibility for the control and disposition thereof. It is desirable that the committee utilize, as a general practice, the storage facilities of the handlers for the storing of the reserve and surplus tonnages applicable to their respective acquistions, but it is conceivable that it may be desirable, in some instances, for the committee to make other storage arrangements.

Handlers should be required to hold reserve and surplus tonnage under such storage conditions as will maintain, insofar as is practicable under normal storage conditions, the condition of such raisins at the time of acquisition. Handlers are experienced in the storing of raisins, and have adequate facilities and trained personnel available therefor. Handlers should not be held responsible for shrinkage and deterioration resulting from normal and natural causes, or from unusual situations over which the handler has no control, such as fire, acts of God, flood, or war or riots. Since handlers would hold these raisins subject to the control of, and disposition by, the committee, they should deliver them to the committee upon its request, after reasonable notice to do so. Such delivery should be considered as being made when the handler makes the raisins available to the committee at his warehouse, or other place where they may be stored, inasmuch as it would be the duty of the committee to make arrangements for any transfers. In making disposition of pooled raisins, it may be necessary for the committee to have them packed, in which event the committee should be permitted to arrange with a handler for the performance by him of such service.

It should be required that each handler have in his possession, or under his control, at all times, a quantity of raisins equal to the aggregate quantity of reserve tonnage and surplus tonnage referable to his acquisitions of raisins, less any quantity of such reserve or surplus tonnage delivered by him pursuant to instructions of the committee and any quantity of such tonnage acquired by him but subsequently sold to him by the committee. However, the committee should have the authority to defer the meeting of such requirement by any handler for a period ending not later than November 15 of any crop year, if the handler meets such necessary and reasonable terms and conditions relating to such deferment as should be prescribed by the committee, including, but not limited to, the giving of a performance bond. Deferment of the meeting of the aforementioned requirement may be advisable because the setting aside and holding of appreciable amounts from early deliveries might retard the movement of raisins in normal market channels, and thus reduce the total quantity which will ultimately move in such channels. Also, to the extent of the quantity of raisins deferred pursuant to this provision, the committee would avoid storage and other charges accruing on the reserve and surplus tonnages which otherwise would be held by packers. Fulfillment of handlers' reserve and surplus obligations should not be deferred after November 15 because procurement of raisins from producers would be retarded and effect of the pooling operations unduly delayed.

In order to insure, insofar as practicable, that a handler who is granted a deferment would subsequently account for the surplus and reserve tonnages applicable to his acquisitions, the committee should require that he give a performance bond. Since the committee is in the area and would be administering the order, and there would be need for prompt action on requests for deferment, it is concluded that the committee should administer the furnishing and filing of bonds. In exercising this function, it should determine what sureties, corporate or private, are satisfactory for acceptance as bondsmen. The amount of such a bond should be computed on the basis of the then current market value of the raisins in the quantity for which the deferment is granted. Since any deferment granted to a handler would be at his election and for his benefit, he should bear the costs of the bond. Inasmuch as the committee would administer the bond provision, each such bond should run in favor of the committee. In addition, however, the Secretary should also be included as an obligee, inasmuch as, under the act, any suits in that regard will need to be brought, upon the request of the Secretary, by the appropriate district attorney of the United States, under the direction of the Attorney General of the United States, and in the appropriate Federal courts. Any money obtained in connection with default on such a bond should be deposited with the other proceeds from the disposition of the reserve and surplus tonnages. This procedure is justifiable since reserve and surplus tonnage sold and not set aside would displace free tonnage of other producers and such producers would be entitled to compensation therefor.

Natural condition raisins or packed raisins delivered as reserve or surplus tonnage by any handler to the committee, or to any person designated by it, should meet minimum grade requirements prescribed by the committee with the approval of the Secretary. Such minimum grade requirements should be established. This provision is needed so that the pooled raisins would meet the requirements of prospective purchasers or of any prospective lending institution to which the raisins in either of the pools might be pledged as collateral. The provision would tend to establish uniform quality of raisins in the reserve and surplus pools, respectively. Since deliveries to the committee by handlers would consist of either natural condition raisins or packed raisins from the reserve and surplus pools, and inasmuch as natural condition raisins have not been processed, it would be necessary to have different minimum grade requirements for each. It should be permissive, but not mandatory, for different minimum grade requirements to be established for reserve tonnage than for surplus tonnage, because in the future raisins in the respective pools might be disposed of for different uses. It should also be permissive for different minimum grade requirements to be established for different varietal types, inasmuch as they vary in quality factors.

The raisin industry does not now have written standards for natural condition raisins which are in general use by the industry, and if the order should be put into effect, such standards should be developed and prescribed prior to the time when handlers begin acquiring raisins from producers. The industry has been accustomed, however, to the use, in connection with the purchase of raisins by the Federal Government, of grades set forth in the United States Standards for Grades of Processed Raisins and the United States Standards for Grades of Dried Zante Currants. U. S. Grade C is the minimum grade for standard quality raisins with respect to all types and varieties of raisins except Zante Currants. U. S. Grade B is the minimum grade for standard quality Zante Currants. Pending the establishment of any other minimum grade requirements for packed raisins, reserve tonnage or surplus tonnage delivered by any handler to the committee, or to any person designated by it, as packed raisins, should meet the respective grade requirements set forth in Exhibit B of the order, which are the same as for U. S. Grade B for Zante Currants and U. S. Grade C for all other types and varieties of raisins.

Since unforeseen conditions might arise during a crop year so as to make it desirable to modify, suspend, or terminate the minimum grade requirements then in effect, provision should be made which would permit the Secretary, acting either on the basis of the recommendations of, and supporting information submitted by, the committee, or other information available to him, to modify, suspend, or terminate such requirements.

There was some contention at the hearing to the effect that: (i) All natural

condition raisins should be inspected by an impartial agency at the time they are acquired by handlers from producers on the basis of specified minimum grade requirements for such raisins; (ii) by use of such grades and incoming inspection, substandard raisins should be segregated as surplus in a pool, with special provision for its disposition, separate and apart from the reserve pool and a pool of surplus standard quality raisins; and (iii) outgoing inspection should be applied to free tonnage by an impartial agency prior to shipment thereof by handlers in commercial trade channels to determine whether the raisins meet minimum grade requirements for packed raisins, as well as reserve tonnage and surplus tonnage when delivered by handlers in accordance with the committee's instructions. It was contended that, if the order should be revised in accordance with (i), (ii), and (iii) above, producers would be benefited by increased returns, because the quality of raisins shipped in normal trade channels would be improved. It was further contended that the having of minimum grade requirements applicable only to deliveries of raisins from the reserve and surplus pools, would force substandard raisins into free tonnage to be sold in normal trade channels, and that such result would be harmful to such sales of free tonnage. Also, it was argued that the original proposed way of handling would be unfair to handlers, in that they would be required to deliver pooled raisins meeting the specified minimum grade requirements, but would not have such protection as would be afforded them by minimum grade requirements applicable to their receipts of natural condition raisins from producers.

It is concluded that the suggested revisions should be denied. Handlers are always at liberty to have inspections made of any raisins acquired or sold by them at any time they desire such action. Therefore, they are in a position to see to it that they have on hand adequate quantities of raisins meeting the prescribed minimum grade requirements for delivery to the committee from the reserve and surplus pools. Also, there would be no obligation on any handler to purchase substandard quality raisins from any producer. In other words, it already lies within the power of each handler to improve, through voluntary inspections, the quality of raisins he acquires, handles, and sells. The proposed revisions would also require major changes in the manner of handling the pools, particularly with respect to the substandard raisins, and the testimony given does not serve as an adequate basis for making such changes. Also, the importance of the quality problem may have been overemphasized, in that, normally, only a very small percentage of the raisin production is of substandard quality. The percentage may be higher in years when there is extensive rain damage to raisins, but the order contains special provision to take care of such an unusual situation. It is contemplated that vintners would be customers for at least some of the substandard raisins in the free tonnage. In view of the foregoing, it is believed that the suggested revisions are not justified from the standpoint that they are necessary to accomplish the declared policy of the act. The major factor contributing to the present economic distress in the industry is the large uncontrolled surplus of raisins, and inasmuch as the volume of substandard raisin production is insignificant, the quality requirements do not have a major bearing on surplus control.

It was also proposed that the minimum grade requirements should be prescribed annually, and prior to September 1 of each crop year. It is concluded that this proposal should be denied, as it might entail considerable unnecessary labor on the part of both the committee and the Secretary. The minimum grade requirements applicable in one crop year may be appropriate for use in the succeeding crop year, and, in such circumstances, no useful purpose would be served in represcribing them. On the other hand, if changed conditions should make it desirable that the minimum requirements be changed, such action could be taken at any time.

The order provides authorization for the committee, under certain circumstances and conditions, to sell to handlers raisins from the reserve and surplus pools.

In the event the committee should offer reserve or surplus tonnage raisins to handlers for sale, or for contract packing, each handler should be given the first right to purchase or contract for packing his share of such offer, which share should be determined as the same proportion that the respective reserve or surplus tonnage held by him is of the respective tonnage held by all handlers. If any handler's obligation to have in his possession or under his control a quantity of raisins equal to the aggregate quantity of reserve or surplus tonnage referable to his acquisitions of raisins, has been deferred by the committee for a specified period pursuant to the order, the quantity of the respective reserve or surplus tonnage represented by the deferment should be included as part of such handler's holdings in determining his share of the offer. Such a provision is necessary so as not to penalize a handler for availing himself of a right conferred by the order. If any handler declines or fails to purchase or contract for packing any or all of his share, the remaining portion thereof should be reoffered by the committee to all handlers who purchased or contracted for packing all of their respective shares of such offer, in proportion to their respective shares. Any quantity remaining unsold or not contracted for packing after such reoffer should be withdrawn from the particular offer. It is a matter of equitable treatment, that when it becomes desirable to offer reserve or surplus tonnage raisins for sale or packing to handlers, each such handler should be permitted to purchase or pack such raisins in proportion to his holdings. If he does not avail himself of the privilege, it is only reasonable that the remaining reserve or surplus tonnage covered by the offer should be made available to other handlers.

Handlers should be compensated for receiving, storing, and handling reserve and surplus tonnage raisins held by them, for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary. In receiving, storing, and handling reserve or surplus tonnage raisins, the handler would perform a service for the committee. It is only fair that he should be reimbursed for the expenses incurred in performing this service. The schedule of payments should be approved by the Secretary in order that the producers' interest in such raisins may be protected.

The net proceeds from the disposition of reserve and surplus tonnage raisins of each varietal type should be distributed by the committee to the respective producers, or their successors in interest thereto, on the basis of the volume of their respective contributions to such pools. Such distribution in connection with the reserve and surplus tonnages contributed by a nonprofit cooperative marketing association which has authority to market the raisins of its members and to allocate the proceeds therefrom to such members should be made to the association. Producers generally would need any proceeds from the disposition of reserve and surplus tonnages to which they would be entitled in order to meet their financial obligations. For this reason, the committee should be authorized to make progress payments as sufficient funds become available. For the same reason, the committee should be authorized to distribute among producers, in the same manner, the proceeds from any loan on the reserve or surplus tonnages.

It was proposed that the committee be empowered and authorized, in its discretion, to obtain loans on all or any part of the raisins held in the reserve and surplus pools during any crop year, and to pledge or hypothecate such raisins to the lender as security for the repayment of such loans. It is intended that such loan proceeds would be disbursed promptly to the producers in proportion to their interests, so as to provide them with ready cash to meet their current financial obligations. In most instances, raisin producers must depend upon the incomes from their vineyards for the support of themselves and their families. The production and harvesting of raisin variety grapes, and the conversion of them into raisins, require a heavy expenditure of money throughout the production season, particularly for labor, irrigation, and fertilizer. It has been necessary in the past for such producers generally to obtain loans from banks, other lending institutions, or packers for use in paying these operating expenses. As security for these advances, they were often required to give chattel mortgages on their crops or other adequate security. Under the order, it is contemplated that a substantial portion of each producer's raisin production will be set aside in the reserve and surplus pools for disposition by the committee. This would mean that the receiving handler would ordinarily pay the producer for only that part of his production which is represented by the free tonnage. Full settlement on the pools would probably not be

made until the end of the marketing season. In these circumstances, it seems doubtful that most producers will obtain, as needed, enough money from their free tonnage to enable them to meet their financial needs, thereby making it desirable that such income be supplemented from other sources as soon as practicable. It is concluded, therefore, that, in order to provide these producers with the necessary money at the earliest practicable date and thus prevent financial distress to them, the committee should be empowered, in its discretion, to obtain loans and to pledge or hypothecate any or all of the raisins in the reserve and surplus pools as security for the repayment thereof. Such action should tend to effectuate one of the main objectives of the act, in that it should preserve and strengthen the financial situations of the producers involved.

There have been times during recent years, when, under somewhat similar programs operated pursuant to the laws of the State of California, loans on the excess, or surplus, supply of raisins have been obtained through an agency of the Federal Government, and experience in operating such programs in those circumstances indicated that such a way of handling did serve to benefit the financial situations of the producers. However, the aforementioned conclusions should not be construed as a commitment, or as an indication, either on the part of the Secretary or of the United States, or of any instrumentality thereof, that such a loan will be made by the United States Department of Agriculture or any other agency of the Federal Government, if the order should be put into effect with an authorization to the committee to obtain loans on the reserve and surplus tonnages of raisins.

It was proposed that, in order to facilitate the obtaining of such a loan, a provision should be incorporated in the order to the effect that the legal title to the reserve and surplus tonnages should be vested in the committee, but that the equitable or beneficial interest in such tonnages "shall at all times remain in the producer." It is concluded that this portion of the proposal should be denied. The act specifically authorizes the granting to an administrative agency charged with responsibility for operating a program of this nature, the authority to take any action, pursuant to the particular regulation, necessary to effectuate the control and disposition of the surplus of the commodity being regulated. In these circumstances, it is immaterial whether the legal title is vested in the administrative agency or remains in the individual producers. It is, therefore, unnecessary to vest legal title to any raisins in the committee.

It was also proposed that the committee should be authorized to obtain such loans on a "nonrecourse, or otherwise" basis. It is concluded that the committee should be permitted to obtain loans, nonrecourse or otherwise, on the reserve or surplus tonnages, or both, so that it could negotiate the best loans practicable consistent with the objectives of the act. However, the committee should be required to include in any loan contract it enters into an appropriate provision which would preclude disposal of the raisins in such a manner as would tend to defeat the objectives of the order in the event the lender obtains possession or control of raisins by default of the committee.

In view of the foregoing, it is found that the loan and hypothecation authority would be incidental to, and not inconsistent with, the terms and conditions specified in section 8c (6) of the act and necessary to effectuate the other provisions of the order.

The committee should be authorized to establish, from time to time, with the approval of the Secretary, additional procedures relating to the handling of reserve or surplus tonnage raisins not inconsistent with the provisions of the order, to meet any presently unanticipated contingency which might arise.

All reserve tonnage held on June 1 of a particular crop year should, at that time, and any reserve tonnage acquired between June 1 and the end of the crop year should, at the time of acquisition, automatically become surplus tonnage and be disposed of as such. Reserve tonnage should be held until June 1 to provide raisins which may be released to free tonnage to meet any errors in the original estimates of the supply and demand. The amount needed for that purpose should be known definitely before June 1, so that arrangements for transfer of the necessary reserve tonnage to free tonnage may be completed by that time. No release of reserve tonnage to free tonnage should be permitted prior to November 1 of the particular crop year in the case of bleached or Golden Bleached raisins, or December 1 of such crop year in the case of other raisins. The specified free tonnage should be more than adequate to take care of all normal trade demands up to those dates in any event. It is necessary to provide that bleached and Golden Bleached raisins may be released for sale to handlers for use as free tonnage at an earlier date than other raisins because they have a shorter storage life and the distribution of them to the public usually occurs earlier in the season.

The committee should be authorized to dispose of reserve tonnage prior to June 1 by sales to handlers in order to meet overall deficiencies in the free tonnage. It is contemplated that free tonnage would be fixed at such a figure as would be considered sufficient to provide enough raisins to meet all normal trade demand throughout the year and that the reserve would be used only to take care of possible miscalculations in determining the free tonnage percentage.

The proposal presented at the public hearing required the offering for sale of reserve tonnage by the committee to be based upon the price received by producers for free tonnage of the same varietal type at the time of the committee's offer and included standards to apply in the event no sales of a given varietal type had been made by producers at such time but made no provision for handling and carrying costs.

Reserve tonnage of any varietal type of raisins should not be sold at a price below that which reflects the average price received by producers for free tonnage raisins of the same varietal type purchased by handlers during the current crop year up to the time of any offer for sale of reserve tonnage by the committee, to which price should be added the costs incurred by the committee on account of the receiving, storing, insuring, and holding of said raisins. Reserve tonnage, after sale to handlers, would become in effect free tonnage, and the committee should not sell reserve tonnage raisins at prices which would tend to depress the price of free tonnage raisins. In case of a rising market, this restriction would not handicap the committee in disposing of the reserve tonnage. In case of a declining market, a minimum price as prescribed would restrict the committee in disposing of reserve tonnage, but such restriction would be in line with the purpose for which the reserve tonnage is established, namely, to provide an additional source of supply only in case the free tonnage should be inadequate to supply market demands. Also, the use of such an average price would reflect the general level of the season to the date of the offer free of abnormal fluctuations which could result from the use of prices prevailing only at the time of the offer.

With the average price to be used by the committee covering the period from the beginning of the season to the date of the committee's offer to sell, there could be no varietal type in the reserve tonnage without corresponding prices for such type in the free tonnage. Therefore, the standards provided to guard against this contingency have been deleted.

It is believed that the standards prescribed for the committee to follow in establishing any price to govern the sale of reserve tonnage raisins are so sufficiently definite that the Secretary's approval of such prices should not be required. Also, the price which would be established on the basis of the average of purchases by handlers would be continually changing and approval by the Secretary would not be administratively feasible. The committee should, however, file with the Secretary, five days prior to making any offer to sell reserve tonnage raisins, information relating to the quantity of raisins to be offered and the estimated price or prices at which such raisins are to be offered. The Secretary would retain the right to disapprove any such offer or price.

It was proposed that the minimum prices prescribed for the sale of reserve tonnage should not apply to any reserve tonnage on which a loan is obtained or reserve tonnage held by the committee on or after June 1 of the crop year in which it was acquired by handlers. These exceptions are rejected because: (i) Any reserve tonnage on which a loan is obtained should still be subject to the provisions of the order; and (ii) reserve tonnage held by the committee on or after June 1 would become surplus tonnage and be subject to the provisions applicable thereto.

The committee should be authorized to dispose of surplus tonnage raisins by

sale, gift, or otherwise, except that such disposition should be limited to outlets which the committee finds would not interfere with normal marketing of raisins or raisin variety grapes. All surplus tonnage raisins held by the committee or for its account on March 1 of any crop year should be disposed of within 60 calendar days subsequent thereto, and any surplus tonnage acquired between March 1 and the end of such crop year, or any reserve tonnage which becomes surplus tonnage during such period, should be disposed of within 60 calendar days after acquisition or after becoming surplus, as the case may be.

Surplus tonnage should be disposed of only in those channels where it would not compete or interfere with sales of free tonnage raisins or of raisin variety grapes. Otherwise, the objective of the order would tend to be defeated. Surplus tonnage could be disposed of for exportation by Government agencies, relief feeding, animal feeding, and other noncompetitive uses. The surplus should be disposed of as promptly as possible so that it would not threaten successful operation of the order. Due to the necessity for disposing of the surplus within the time prescribed, the committee should not be restricted to disposition by sale alone.

It was proposed that all surplus tonnage raisins acquired on or before May 1 should be disposed of by May 1. However, it was developed that, for acquisitions close to May 1, such a requirement could not be met in some instances. It is concluded, therefore, that, subsequent to March 1, a period of at least 60 calendar days after acquisition should be provided for disposition purposes. Such a period should provide adequate time to effect disposition.

The order provisions, as they relate to the disposition of surplus tonnage raisins or the right of a handler to purchase or contract pack his pro rata share of such raisins, should not restrict, or be deemed to restrict, any sale of surplus tonnage by the committee to the United States Government, or to any agency thereof, for school lunch and institutional feeding, export, domestic relief feeding, or other noncompetitive uses. The committee should be free to negotiate the terms and conditions of such sales.

A handler should be permitted to substitute an equal quantity of natural (sundried) Muscat or Valencia raisins for any portion or all of the reserve or surplus tonnage referable to his acquisitions of Layer Muscat raisins. However, he should first make arrangements satisfactory to the producer of the Layer Muscat raisins for such substitution in order that the producer's interest would be protected. This provision is desirable, inasmuch as Layer Muscat raisins are usually higher priced than most other Muscat raisins, and probably the Layer Muscat raisins would not command a premium if they were disposed of as surplus.

As soon as practicable after the effective date of the order, the committee should, with the approval of the Secretary, establish regulations and procedures for the handling and disposition of that portion of the raisin production which may be substantially damaged by rain or other natural causes. A portion of the production has been damaged substantially in past years before drying operations were completed. Inasmuch as damaged raisins require prompt handling and disposition to avoid further spoilage of them and still return some value to the producer, it is advisable that general regulations and procedures be established and ready to operate immediately when and if an emergency of this nature arises. It should be permissive that the regulations and procedures provide, among other things, for the handling and disposition of such damaged raisins free from any or all provisions of the order. The operation of the order without provisions relating to the disposal of damaged raisins could cause undue hardship to producers.

(e) At any meeting held on or before July 5 for the purpose of adopting a marketing policy, the committee would be required to estimate the quantity of raisins which would be needed to meet normal trade demands for the next crop year. One of the important factors in this connection is the quantity of raisins produced in the prior crop years which would be carried over into the new crop year. Handlers would be the most reliable source of information regarding the carryover. Therefore, except for the initial crop year, each handler should, upon request of the committee, file with the committee a certified report of all natural condition raisins and packed raisins, separately, held by him on July 1. Such report should also show the quantity of each varietal type so held and the location thereof. With respect to the initial crop year, since the marketing policy meeting should be held as soon as practicable after the effective date of the order, the initial carryover report should be filed with the committee upon its request as soon as practicable after the effective date of the order. Each such report should show the required information as of the effective date of the order.

It was proposed that each report of carry-over be sworn to by the submitting handler, but no substantive evidence in support thereof was presented at the hearing. In respect to other reports, it was proposed that handlers be required only to certify as to the correctness thereof. There was no apparent reason for such differentiation. Therefore, it is concluded that all reports should only be certified by the handlers.

Each handler should file with the committee, for each week, a certified report showing, with respect to the acquisition of each varietal type during the particular week covered by the report: (i) The total quantity acquired; (ii) the reserve and surplus tonnages, separately, referable to his acquisitions of raisins; (iii) the locations of such reserve and surplus tonnages; and (iv) cumulative totals of such acquisitions from the beginning of the then current crop year to and including the end of the week for which the report is made. Each such weekly report should be filed not later than Wednesday of the week following that which is covered by such report. This information would be necessary to keep the committee informed regarding the reserve and surplus tonnages. Also, in order to enable the committee to ascertain interests of persons in the pooled raisins and to make proper distribution of the net proceeds thereof, each handler should file with the committee, in such manner and at such times as it may prescribe, the name and address of each person from whom such handler acquires raisins, showing the quantities of each varietal type so acquired. Upon request of the committee, made with the approval of the Secretary, each handler should furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to exercise its powers and perform its duties. It is impossible to anticipate every type of report which the committee may need in connection with the administration of the order, but it should have the authority to obtain such information.

By reason of the nature of reports which a handler would be required to file, it could easily happen that information contained therein may be such as to disclose trade secrets, or affect such handler's trade position, financial condition, or business operations if known to his competitors. Therefore, insofar as is reasonably consistent with the use of such information in connection with the administration of the order, each handler should be protected against disclosure of the information furnished by him. It is concluded that such objective could be attained by having the information furnished to one or more employees of the committee charged with the responsibility of preventing the disclosure of such information except to the extent necessary in administering the order. It was proposed that such employees be bonded, but no showing was made as to what purposes would be served by that action, and that proposal is, therefore, denied.

In order to enable the committee to verify the correctness of reports filed with it by handlers, and also to determine whether handlers are complying with the requirements of the order, each handler should maintain such records of all raisins acquired by him as prescribed by the committee. Such records should include, but not be limited to, the source, total acquisitions, total sales, and total other disposition of each varietal type which he handled.

(f) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and are likely to be incurred by it during each crop year for the maintenance and functioning of such committee (exclusive of direct expenses incurred in the operation of the reserve and surplus pools) and the board. The funds to cover such expenses should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by an administrative agency, such as the committee, for such purposes as the Secretary determines to be appropriate and for the maintenance and functioning of such

agency, and requires that each marketing order of this nature contain provisions requiring handlers to pay, pro rata, the necessary assessments.

It was proposed that each handler should pay to the committee, on demand, the sum of 20 cents for each ton of raisins acquired by him. It was testified that such assessment should be levied on all raisins which a handler receives, regardless of whether they constitute a part of the free tonnage, reserve tonnage, or surplus tonnage. In this connection, it was also proposed that expenses in connection with the reserve and surplus tonnage operations not be paid out of the regular assessment fund, but that they be deducted from the proceeds obtained from the sale or other disposal of such reserve and surplus tonnage. In these circumstances, in order to avoid double payment of operational costs in respect to the reserve and surplus tonnages, it was stated that the handler making the regular assessment payment on his reserve and surplus tonnage portions should be entitled to recoup the amount of such payment from the proceeds derived by the committee from its disposal of such tonnages.

It is concluded that the aforementioned method of assessment in connection with the reserve and surplus tonnages would be unduly and unnecessarily complicated. Inasmuch as the direct expenses attributable to those tonnages would be paid, in any event, from the disposal proceeds, no useful purpose would be served in having handlers pay the regular assessments thereon and later be reimbursed therefor by the committee from such disposal proceeds. Therefore, the regular assessment should be made against handlers only with respect to the free tonnage portions of the raisins acquired by them and reserve tonnage sold to them by the committee. Also, in order to avoid double, or more, payment on any lot of raisins acquired, the assessment should apply only against the handler who first acquires such lot. Reserve tonnage sold by the committee to handlers for resale in normal market channels would, in effect, become free tonnage. Therefore, it is equitable that such reserve tonnage should be assessed on the same basis as the regular free tonnage.

It was not established at the hearing that the proposed assessment rate of 20 cents per ton would provide the amount of money needed to cover administrative expenses. The act requires that handlers shall pay their pro rata shares of administrative expenses, and, in the absence of a showing that a specified rate would provide the needed revenue, it is concluded that the assessment rate per ton for each crop year should be fixed by the Secretary on the basis of the estimated cost divided by the estimated quantity to be assessed.

The Secretary should have the authority, at any time during a crop year or thereafter, to increase the rate of assessment when necessary to obtain sufficient funds to cover any later finding by him relative to the administrative expenses of the committee. Any such increase in the rate of assessment should be applicable to all free tonnage raisins acquired by handlers during the particular crop year. Since the act requires that administrative expenses shall be paid by all handlers pro rata, it is necessary that the increased rate apply retroactively against all assessable raisins acquired by handlers during the period.

In order to provide funds to carry out its functions during periods when sufficient assessment monies may not be due and payable, the committee should be permitted to accept advance payments from handlers. These advance payments should be credited by the committee toward such assessments as might be levied later against the particular handler for the crop year. The permitting of the committee to accept advance payments is in accordance with the usual practice in the operation of marketing agreement and order programs, and could provide the committee with funds during the early part of a crop year, when assessment payments would normally be light.

If, at the end of any crop year, the assessments collected exceed the expenses incurred, each handler's share of such excess should be credited to him against the operations for the following crop year, unless such handler demands payment thereof, in which case refund should be made to him. The right of every handler to the return of his pro rata share of the excess funds would be recognized by providing for the payment of such share to him in case he requests it.

The committee should be authorized, with the approval of the Secretary, to maintain in its own name, or in the name of its members, a suit against any handler to enforce collection of such handler's pro rata share of the operational expenses. Such a provision with respect to the bringing of suits for that purpose is set forth in the act.

All assessment monies received by the committee should be used solely for the purposes, and accounted for in the manner, specified in such order. The Secretary should be authorized to require the committee, at any time, to account for all receipts and disbursements. The committee, in acting as the administrative agency for the order operations, should be charged with the responsibility of operating such order, and be authorized to incur necessary expenses in connection therewith.

The committee should also be authorized to incur such direct expenses as the Secretary finds are reasonable and likely to be incurred by it in discharging its obligations with respect to reserve and surplus tonnages. Reserve and surplus tonnages are to be handled and disposed of by the committee for the benefit of the producers. The committee would need to incur certain direct expenses in that regard, such as the cost of storing, processing and packing the raisins, insurance, and hauling. Such costs should be deducted from the proceeds derived from the disposal of the reserve and surplus tonnages, the balance of such proceeds to be paid to producers or their assignees in proportion to their respective interests.

(g) The provisions of §§ 989.7 to 989.14, are generally common to marketing agreements and orders now operating. The provisions of §§ 989.15 to 989.17, are also generally common to marketing agreements now operating. All such provisions are incidental to, and not inconsistent with, the act, and are necessary to effectuate the declared purposes of the act. Testimony at the hearing supports the inclusion of each of such provisions as hereinafter set forth. In this connection, it has been found desirable or necessary to make certain changes in the aforementioned sections as set forth in the notice of hearing in this instance. In § 989.12, the title has been changed so as to recognize the fact that, suspensions, as well as terminations, are covered thereunder. In paragraph (a) of said § 989.12, provisions have been added to the effect that the Secretary shall fix the effective times of any amendments, as well as of the original regulatory provisions, and also language has been included therein to signify that such regulatory provisions shall not be in effect during any period in which they are suspended. In paragraph (b) of the aforementioned § 989.12, the title has been changed to read "Suspension or termination" for the same reason as indicated above, reference to "marketing year" has been changed to "crop year" in recognition of the fact that the latter term is now proposed to be used, and the term "producers of raisins" has been changed to "producers of raisin variety grapes," since the latter, rather than the former, will conform with the presently proposed conception of who shall be considered as producers. The second sentence of § 989.14, as set forth in the notice of hearing, has been omitted, because with certain minor exceptions which are not material here, a marketing agreement must be in conformity with its companion marketing order. Sections 8c (8) and (9) of the act prescribe the terms and conditions which must be met as to voting by number and volume in connection with the issuance of a marketing order, either with or without a marketing agreement. The provisions contained in said second sentence are unnecessary and could conflict with the operation of the indicated legal requirements. Also, said § 989.14 is being made applicable to the proposed order, as well as to the proposed marketing agreement.

Those provisions which are applicable to both the proposed marketing agreement and order, identified by section numbers and titles, are as follows: § 989.7 *Personal liability;* § 989.8 *Separability;* § 989.9 *Derogation;* § 989.10 *Duration of immunities;* § 989.11 *Agents;* § 989.12 *Effective time, termination or suspension;* § 989.13 *Effect of termination or amendment;* and § 989.14 *Amendments.*

Those provisions which are applicable to the proposed marketing agreement only, identified by section numbers and titles, are as follows: § 989.15 *Counterparts;* § 989.16 *Additional parties;* and § 989.17 *Order with marketing agreement.*

Near the close of the hearing, it was suggested on behalf of the proponents that there be added at the end of the proposed regulatory provisions, a new section which would read as follows:

"Governing rules for meetings. At all meetings held by any group pursuant to this agreement, the proceedings thereof shall, unless otherwise provided herein, be governed by the then current edition of Roberts Rules of Order (revised)." While no testimony was presented on this proposal, it was stated by the attorney for the proponents that the "insertion of this section (will) merely provide a Bible, so to speak, for the conduct of the meetings of the various boards, committees, and groups that are contemplated." It is concluded that such proposal should be denied as being unnecessary and possibly as also being unduly restrictive. The board and the committee are the only two groups which will be provided for under the program. The board would act primarily in an advisory capacity, leaving the committee as the only group which would need to take formal administrative action. As has been set forth previously, the committee will be empowered to issue rules and regulations necessary and appropriate for the carrying out of its powers and duties, and it is believed that it would be preferable to leave it free to adopt for itself such rules of procedure as it might deem most satisfactory in the light of the circumstances under which it might be required to operate.

It is hereby found and proclaimed that: (1) The parity price for raisins cannot be determined satisfactorily from available statistics of the United States Department of Agriculture on the August 1909–July 1914 base period specified in section 2 (1) of the act; and (2) the parity price for raisins can be determined satisfactorily from such available statistics on the August 1919–July 1929 base period specified in section 8 (e) of the act, and such period is the period to be used for the making of the parity computation in connection herewith. The estimated season average price to producers for raisins for the year beginning September 1947 was $132 per ton, as compared with the parity price for that period of $174 per ton, or 76 percent of parity.

The proposed order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to raisins produced from raisin variety grapes grown in California by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to the producers thereof at a level that will give such raisins a purchasing power with respect to the articles that such producers buy equivalent to the purchasing power of such raisins in the base period, August 1919–July 1929, and protect the interest of consumers by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand, and (2) by authorizing no action which has for its purpose the maintenance of prices to the producers above the level which it is declared to be the policy to establish.

Rulings on proposed findings and conclusions. At the time of the hearing, the Presiding Officer set January 20, 1949, as the date by which briefs from interested parties with respect to facts presented in evidence at the hearing and the conclusions to be drawn therefrom must be filed with the Hearing Clerk for the Department. Such date was later extended to February 7, 1949, by the Presiding Officer. Briefs were filed on behalf of the proponents of the proposed regulatory program, the Tri-County Thompson Seedless Growers' Association, an organization of producers of Golden Bleached raisins, Hugh M. Tucker, Jr., a raisin variety grape producer and Chairman of the Grape and Raisin Committee, Fresno County Farm Bureau, California Farm Bureau Federation, and also by Iener W. Nielsen on behalf of certain unnamed producers and handlers. Those briefs contained proposed findings of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in such briefs was considered carefully along with the evidence in the record in making the findings and reaching the conclusions hereinabove set forth. To the extent that the suggested findings and conclusions contained in those briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings, or to reach such conclusions, is denied on the basis of the facts found and stated in connection with this decision.

Recommended marketing agreement and order. The following proposed marketing agreement and order [1] are recommended as the detailed means by which the aforesaid conclusions may be carried out:

§ 989.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

(d) "Area" means the State of California.

(e) "Raisin variety grapes" means grapes of the Thompson Seedless (or Sultanina), Muscat of Alexandria (or Muscat), Muscatel Gordo Blanco (or Muscat), Black Corinth (or Zante Currant), White Corinth (or Zante Currant), and Seedless Sultana (or Sultana), varieties grown in the area.

(f) "Raisins" means any raisin variety grapes from which a part of the natural moisture has been removed by sun-drying or artificial dehydration after such grapes have been removed from the vines.

(g) "Bleached raisins" means (1) any raisins which have been produced by soda dipping, with or without oil, whether sun-dried or artificially dehydrated, or (2) any raisins which have been produced by soda dipping, sulfuring, and sun-drying.

(h) "Golden bleached raisins" means raisins, the production of which includes soda dipping, sulfuring, and artificial dehydration.

(i) "Natural condition raisins" means raisins, the production of which includes sun-drying or artificial dehydration, with or without bleaching, but which have not been further processed to a point where they meet the conditions for "packed raisins" as defined in paragraph (j) of this section.

(j) "Packed raisins" means raisins which have been stemmed, graded, sorted, cleaned, or seeded, and placed in any container customarily used in the marketing of raisins or in any container suitable or usable for such marketing.

(k) "Varietal type" means natural (sun-dried) Thompson Seedless, natural (sun-dried) Muscat, natural (sun-dried) Sultana, natural (sun-dried) Zante Currant, artificially dehydrated Sultana, artificially dehydrated Zante Currant, Layer Muscat, Golden Bleached, Sulfur Bleached, Soda Dipped, or Valencia raisins.

(l) "Producer" means any person engaged, in a proprietary capacity, in the production of raisin variety grapes.

(m) "Dehydrator" means any person who produces raisins by dehydrating raisin variety grapes by means of artificial heat.

(n) "Processor" means any person who acquires natural condition raisins and uses them within the area, with or without other ingredients, in the production of a product other than raisins, for market or distribution.

(o) "Packer" means any person who acquires natural condition raisins and within the area stems, grades, sorts, cleans, or seeds them, and packages them for market as raisins.

(p) "Handler" means any person who ships natural condition raisins out of the area, or any processor or packer.

(q) "Acquire" means to obtain possession of raisins as the first handler thereof.

(r) "Board" means the Raisin Advisory Board established pursuant to § 989.2.

(s) "Committee" means the Raisin Administrative Committee established pursuant to § 989.3.

(t) "Ton" means a short ton of 2,000 pounds.

(u) "Crop year" means the 12-month period beginning with August 15 of any year and ending with August 14 of the following year: *Provided*, That the initial crop year shall begin with the effective time hereof.

(v) "District" means any one of the geographical areas referred to in subparagraph (1) of paragraph (a) of § 989.2 and specified in Exhibit A.

(w) "File" means transmit or deliver to the Secretary or committee, as the

[1] The provisions identified with an asterisk (*) apply only to the proposed marketing agreement, and not to the proposed marketing order.

case may be, and such act shall be deemed to have been accomplished at the time: (1) Of actual receipt by the Secretary or committee in the event of personal delivery; (2) of receipt at the office of the telegraph company, in case submission is by telegram; or (3) shown by the postmark, in case submission is by mail.

§ 989.2 *Raisin Advisory Board*—(a) *Establishment, membership, and term of office.* (1) A Raisin Advisory Board is hereby established consisting of 46 members, of whom 36 shall represent producers, seven shall represent packers, two shall represent dehydrators, and one shall represent processors. The packer members of the board shall include the following: (i) One member selected from and representing packers doing business as cooperative marketing associations or cooperative organizations engaged in the business of packing raisins, but such member must be associated with a cooperative association or other cooperative organization which packed not less than 10 percent of the total raisin pack of the 12-month period preceding the then current crop year; (ii) two members selected from and representing packers other than cooperatives, each of whom packed not more than four percent of the total raisin pack of the 12-month period preceding the then current crop year; (iii) two members selected from and representing packers other than cooperatives, each of whom packed more than four percent, but not more than six and one-half percent, of the total raisin pack of the 12-month period preceding the then current crop year; and (iv) two members selected from and representing packers other than cooperatives, each of whom packed more than six and one-half percent of the total raisin pack of the 12-month period preceding the then current crop year. The 36 producer members shall be selected in the number and for the districts as set forth in Exhibit A, which is attached hereto and made a part hereof. For each member of the board, there shall be an alternate member, who shall have the same qualifications as the member for whom he is the alternate. No person shall be selected or continue to serve as a member or alternate member of the board, who is not actively engaged in the business of the group which he represents, either in his own behalf, or as an officer, agent, or employee of a business unit engaged in such business.

(2) One-third of the producer members and producer alternate members of the board initially selected hereunder by the Secretary shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 30, 1950, and until the respective successors are selected and have qualified. One-third of the producer members and producer alternate members of the board initially selected hereunder by the Secretary shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 30, 1951, and until the respective successors are selected and have qualified. One-third of the producer members and producer alternate members of the board initially selected hereunder by the Secretary shall hold office for a period beginning on a date to be designated by the Secretary and ending on April 30, 1952, and until the respective successors are selected and have qualified. The persons to hold office as producer members and producer alternate members for the respective terms of office specified above shall be determined by the drawing of lots by those persons selected by the Secretary as producer members and alternate members pursuant to paragraph (c) of this section, and the results of such drawings shall be filed promptly with the Secretary. The term of office of succeeding producer members and producer alternate members of the board shall be three years, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified.

(3) The term of office of the packer members, dehydrator members, and processor members, and their respective alternates, shall be three years, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified. The term of initial members and alternate members representing packers, dehydrators, and processors, shall begin on a date to be designated by the Secretary and end on April 30, 1952, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified.

(b) *Nomination.* (1) Nominations for each of the initial producer, packer, dehydrator, and processor members and alternate members of the board may be submitted to the Secretary by producers, packers, dehydrators, or processors, respectively; and such nominations may be made by means of meetings of groups of such persons. Such nominations shall be filed with the Secretary not later than 10 calendar days after the effective date hereof, but may be filed prior thereto. In the event nomination for a member or alternate member of the board is not filed pursuant hereto, and within the time specified herein, the Secretary may select such member or alternate member without regard to nomination, but such selection shall be on the basis of the producer, packer, dehydrator, and processor representations set forth in subparagraph (1) of paragraph (a) of this section.

(2) Nominations for successor members and alternate members of the board shall be made as hereinafter set forth:

(i) The board shall give reasonable advance notice of a meeting, or meetings, of producers, packers, dehydrators, and processors, respectively, for the purpose of making nominations for member and alternate member positions to be filled on the board: *Provided*, That, with respect to producer members and producer alternate members, a meeting, or meetings, shall be held in each respective district for which nominations are to be made to fill producer member and producer alternate member positions on the board. Such notice shall be given through publication in newspapers having general circulation in the area, and may be given through other channels, if the board deems it desirable.

(ii) Only producers who produced raisin variety grapes during the then current crop year in the respective district for which nominations are to be made may nominate, or vote for, any producer member or producer alternate member for such district. Any producer who produced raisin variety grapes during the then current crop year in any of the districts may be nominated to represent any district as producer member or producer alternate member of the board. One or more eligible producers for each producer member position to be filled on the board may be proposed for nomination and one or more eligible producers for each alternate member position to be filled may be proposed for nomination. Each producer shall cast only one vote with respect to each position for which nomination is to be made. The person receiving the most votes with respect to each producer member or producer alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(iii) Only packers who packed raisins during the then current crop year may nominate, or vote for, packer members or packer alternate members. One or more eligible packers for each packer member position to be filled may be proposed for nomination, and one or more eligible packers for each alternate member position to be filled on the board may be proposed for nomination. Each packer shall cost only one vote with respect to each position for which nomination is to be made: *Provided*, That only packers coming within the particular portion of the group, as specified in subparagraph (1) of paragraph (a) of this section, for which nomination is to be made, shall vote. The person receiving the most votes with respect to each packer member or packer alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(iv) Only dehydrators who produced raisins by dehydrating raisin variety grapes during the then current crop year may nominate, or vote for, dehydrator members or dehydrator alternate members. One or more eligible dehydrators for each dehydrator member position to be filled on the board may be proposed for nomination, and one or more eligible dehydrators for each alternate member position may be proposed for nomination. Each dehydrator shall cast only one vote with respect to each position for which nomination is to be made. The person receiving the most votes with respect to each dehydrator member or dehydrator alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(v) Only processors who processed raisins during the then current crop year may nominate, or vote for, the processor member or processor alternate member. One or more eligible processors for the processor member position to be filled on the board may be proposed for nomination, and one or more eligible processors for each alternate member position may be proposed for nomination. Each processor shall cast only one vote with

respect to each position for which nomination is to be made. The person receiving the most votes with respect to the processor member or processor alternate member position shall be the person to be certified to the Secretary as the nominee for each such position.

(vi) Each vote cast shall be on behalf of the person voting, his agents, subsidiaries, affiliates, and representatives. Voting at each meeting shall be in person. The result of each ballot at each such meeting shall be announced at that meeting. Voting at each meeting of producers shall be by secret ballot, and at meetings of packers, dehydrators, and processors voting may be by secret ballot.

(vii) Each such nomination shall be certified by the board to the Secretary on or before April 5 immediately preceding the commencement of the term of office of the member or alternate member position for which the nomination is certified.

(c) *Selection.* The Secretary shall select producer, packer, dehydrator, and processor members and alternate members in the numbers and with the qualifications hereinabove specified. Such selections may be made from the nominations certified pursuant to paragraph (b) of this section, or from other producers, packers, dehydrators, and processors, but each such selection shall be made on the basis of the respective producer, packer, dehydrator, and processor representations and qualifications set forth in this section.

(d) *Failure to nominate.* In the event nomination for a member or alternate member position on the board is not certified pursuant to, and within the time specified in, this section, the Secretary may select such member or alternate member without regard to nomination, but such selection shall be on the basis of the respective producer, packer, dehydrator, and processor representations and qualifications set forth in this section.

(e) *Acceptance.* Each person selected by the Secretary as a member or as an alternate member of the board shall, prior to serving on the board, qualify by filing with the Secretary a written acceptance within 10 calendar days after being notified of his selection.

(f) *Alternate members.* The alternate for a member of the board shall act in the place and stead of such member (1) during his absence, and (2) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

(g) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member, of the board to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner set forth in this section, insofar as such provisions are applicable. If nomination to fill any vacancy is not filed within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nomination, but on the basis of the applicable representations and qualifications set forth in this section.

(h) *Meetings.* The board shall meet on the first Monday in March of each year, and at other times at the call of its chairman. Reasonable advance notice of each meeting shall be given by mail addressed to each member and alternate member, and such notice shall be given as widespread publicity as is practicable. Notices of meetings shall specify the time, places, and general purposes thereof.

(i) *Duties.* The duties of the board shall consist of the conducting of meetings for the purpose of making nominations to fill vacancies on the board and the certifying of nominations made for such purpose to the Secretary, the making of nominations to the Secretary, as provided in § 989.3, for member and alternate member positions on the committee, the making of recommendations to the committee with respect to marketing policy, the free, reserve, and surplus percentages, and such other operational matters as it deems proper or as the committee may request.

(j) *Procedure.* (1) Except as otherwise provided herein, all decisions of the board shall be by majority vote of the members present. The presence of not less than 19 producer members and not less than five members other than producer members shall be required to constitute a quorum.

(2) The board shall give to the Secretary the same notice of meetings of the board as it gives to its members.

§ 989.3 *Raisin Administrative Committee—*(a) *Establishment.* A Raisin Administrative Committee is hereby established to administer the terms and provisions hereof. Such committee shall consist of 14 members, of whom eight shall represent producers (one of whom shall be a producer of raisin variety grapes used in the production of Golden Bleached raisins), four shall represent packers, one shall represent dehydrators, and one shall represent processors. Of the four packer members, one shall be selected from and represent each of the four following divisions of packers: (1) Packers doing business as cooperative marketing associations or cooperative organizations engaged in the business of packing raisins, but such member must be associated with a cooperative association or other cooperative organization which packed not less than 10 percent of the total raisin pack of the 12-month period preceding the then current crop year; (2) packers other than cooperatives, each of whom packed not more than four percent of the total raisin pack of the 12-month period preceding the then current crop year; (3) packers other than cooperatives, each of whom packed more than four percent, but not more than six and one-half percent, of the total raisin pack of the 12-month period preceding the then current crop year; and (4) packers other than cooperatives, each of whom packed more than six and one-half percent of the total raisin pack of the 12-month period preceding the then current crop year. For each member of the committee, there shall be an alternate member, who shall have the same qualifications as the member for whom he is the alternate. No person shall be selected, or continue to serve, as a member or alternate member of the committee, who is not actively engaged in the business of the group which he represents, either in his own behalf, or as an officer, agent, or employee of a business unit engaged in such business.

(b) *Term of office.* Members and alternate members of the committee shall each serve for terms of one year, beginnnig on June 1, and ending on May 31 of the following year, but each such member and alternate member shall continue to serve until his respective successor is selected and has qualified: *Provided,* That the term of office of initial members and alternate members shall begin on a date to be designated by the Secretary.

(c) *Nomination.* The producer members of the board, and producer alternate members when acting as members, shall nominate from among the producer members and producer alternate members of the board eight persons for producer member positions on the committee and an alternate for each such person: *Provided,* That one of the persons nominated for a producer member position on the committee and his alternate shall be producers of raisin variety grapes used in the production of Golden Bleached raisins. The packer members of the board, and packer alternate members when acting as members, shall nominate from among the packer members and packer alternate members of the board four persons for packer member positions on the committee and an alternate for each such person: *Provided,* That such nominations shall be made on the basis of one member and one alternate member each for cooperative packers, and small, medium, and large packers, respectively, as provided in paragraph (a) of this section. The dehydrator members of the board, and dehydrator alternate members when acting as members, shall nominate from among the dehydrator members and dehydrator alternate members of the board one person for the dehydrator member position on the committee and an alternate for such person. The processor member of the board, or the processor alternate member when acting as member, shall nominate from the processor member and processor alternate member of the board one person for the processor member position on the committee and an alternate for such person. Nominations for initial members and alternate members of the committee shall be certified by the board to the Secretary not later than 10 calendar days after the establishment of the board. Nominations for successor members and alternate members of the committee shall be certified by the board to the Secretary annually on or before May 5 preceding the term for which they are to be selected.

(d) *Selection.* The Secretary shall select producer, packer, dehydrator, and processor members and alternate members of the committee in the numbers and with the qualifications hereinabove specified. Such selections may be made

by him from the nominations certified pursuant to paragraph (c) of this section, or from other eligible producers, packers, dehydrators, and processors, but such selections shall be made on the basis of the respective producer, packer, dehydrator, and processor representations and qualifications set forth in this section.

(e) *Failure to nominate.* In the event any of the groups entitled hereunder to submit nominations to the Secretary shall fail to do so within 20 calendar days after the time specified in paragraph (c) of this section, the Secretary may select the particular members or alternate members of the committee without regard to nominations, but such selections shall be on the basis of the applicable producer, packer, dehydrator, and processor representations and qualifications set forth in this section.

(f) *Acceptance.* Each person selected by the Secretary as a member, or as an alternate member, of the committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance within 10 calendar days after being notified of such selection.

(g) *Alternate members.* An alternate for a member of the committee shall act in the place and stead of such member (1) during his absence, and (2), in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified.

(h) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member, of the committee to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated and selected in the manner set forth in this section, insofar as such provisions are applicable. If nomination to fill any such vacancy is not made within 20 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, but on the basis of the applicable representations and qualifications set forth in this section.

(i) *Compensation and expenses.* The members of the committee and the board, and the alternate members when acting as members, shall serve without compensation, but shall be allowed their necessary expenses as approved by the committee.

(j) *Powers.* The committee shall have the following powers:

(1) To administer the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary, complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(k) *Duties.* The committee shall have, among others, the following duties:

(1) To act as intermediary between the Secretary and any producer, packer, dehydrator, or processor;

(2) To keep minutes, books, and other records, which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;

(3) To make, subject to approval by the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to raisins and raisin variety grapes, which are necessary in connection with the performance of its official duties;

(4) To submit to the Secretary such available information with respect to raisins and raisin variety grapes as he may request, or as the committee may deem desirable and pertinent;

(5) To select, from among its members, a chairman and other officers, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(6) To appoint or employ such other persons as it may deem necessary, and to determine the salaries and define the duties of each such person;

(7) Prior to the beginning of each crop year, and not later than July 15 prior to such crop year, to submit to the Secretary a budget of its anticipated expenses, and the proposed assessments for such crop year, together with a report thereon: *Provided,* That, with respect to the initial crop year hereunder, the committee shall file such recommendation and supporting data with the Secretary as soon as practicable after the effective date hereof;

(8) To cause the books of the committee to be audited by one or more certified public accountants at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request, and the report of each such audit shall show, among other things, the receipts and expenditures of funds, and at least two copies of each such audit shall be submitted to the Secretary;

(9) To prepare monthly statements of its financial operations and make such statements, together with the minutes of its meeting, available at the office of the committee for inspection by producers, packers, dehydrators, and processors; and

(10) To make advance public announcements of the times and places of its meetings.

(l) *Obligation.* Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member, such member or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member shall be vested in his successor, or, until such successor has been selected and has qualified, in the committee.

(m) *Procedure.* (1) All decisions of the committee shall be by majority vote of the members present. The presence of nine members shall be required to constitute a quorum.

(2) The committee shall give to the Secretary the same notice of its meetings as it gives to its members.

§ 989.4 *Regulation*—(a) *Marketing policy.* (1) The committee shall hold a meeting to formulate and adopt a marketing policy for the marketing of raisins for the ensuing crop year not later than July 5 preceding the beginning of such crop year: *Provided,* That, with respect to the initial crop year hereunder, the committee shall hold a meeting for such purpose as soon as practicable after the effective date hereof.

(2) Within 10 days after the holding of each such meeting, the committee shall prepare a report setting forth its marketing policy with respect to the marketing of raisins during the crop year, and shall file such report, together with all data and information used by the committee in the formulation of such policy, with the Secretary. Such report shall also include the recommendations of the board. In the event the committee subsequently deems it advisable to modify such marketing policy, because of changed demand or supply conditions, it should hold a meeting for that purpose, and file a report thereof with the Secretary within five days after the holding of such meeting, which report shall show each modification, the reasons and bases therefor, as well as the recommendation of the board. The committee shall file with its report to the Secretary a verbatim record of that portion of its meeting or meetings, relating to its marketing policy.

(3) The committee shall give reasonable advance notice to producers, dehydrators, and handlers of each meeting to consider a marketing policy or any modifications thereof, and each such meeting shall be open to them. Such notice shall be given through publication in newspapers having general circulation in the area, and may be given through other channels, if the committee deems it desirable. The committee also shall give similar notice to producers, dehydrators, and handlers of each marketing policy report, or modification thereof, filed with the Secretary. Copies of all such reports shall be maintained in the office of the committee, where they shall be made available for examination by any producers, dehydrators, or handlers.

(b) *Recommendations for designation of percentages.* (1) If the committee concludes that the supply and demand conditions for raisins make it advisable to designate the percentages of raisins acquired by handlers in any crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively, it shall recommend such percentages to the Secretary: *Provided,* That such percentages shall not apply to raisins produced prior to August 15, 1949. The

committee may recommend such percentages separately for each varietal type. Together with any recommendation with respect to percentages, the committee shall also submit the information on the basis of which such recommendation was made, and the recommendations of the board. In the event the committee subsequently deems it desirable to modify, suspend, or terminate any designation by the Secretary of such percentages, it shall submit to the Secretary its recommendation in that regard along with the information on the basis of which such modification, suspension, or termination is recommended, and the recommendation of the board. The committee shall file with its recommendation to the Secretary, a verbatim record of that portion of its meeting or meetings, relating to the free, reserve and surplus percentages.

(2) In determining any recommendation referred to in subparagraph (1) of this paragraph, the committee shall consider and analyze the following pertinent estimated factors: (i) The supply of raisins, comprising any carryovers of raisins from preceding crop years held by producers and handlers and the tonnage of raisins to be produced in the crop year under consideration; (ii) the trade demand during the crop year for raisins in normal market channels, both domestic and foreign; (iii) the current prices being received for raisins by producers and handlers; (iv) the trend and level of consumer income; (v) present and prospective price trends for raisins; and (vi) other pertinent economic and marketing factors relative to raisins.

(3) The committee shall give reasonable advance notice to producers, dehydrators, and handlers of each meeting to consider the recommendation of the percentages to be fixed pursuant to this section or any recommendation to modify, suspend, or terminate such percentages, and each such meeting shall be open to them. Such notice shall be given through publication in newspapers having general circulation in the area, and may be given through other channels, if the committee deems it desirable. The committee also shall give similar notice to producers, dehydrators, and handlers, of all such recommendations submitted to the Secretary.

(4) The original recommendation by the committee as to percentages with respect to any crop year shall be filed with the Secretary not later than the preceding July 15: *Provided*, That, with respect to the initial crop year hereunder, such recommendation shall be filed with the Secretary as soon as practicable after the effective date hereof.

(c) *Regulation by the Secretary.* (1) Whenever the Secretary finds from the recommendation and supporting information supplied by the committee, or from any other available information, that to designate the percentages of raisins acquired by handlers during any crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively, would tend to effectuate the declared policy of the act, he shall so designate the percentages of raisins acquired by handlers during such crop year which shall be free tonnage, reserve tonnage, and surplus tonnage, respectively: *Provided*, That such percentages shall not apply to raisins produced prior to August 15, 1949. In the event the Secretary subsequently finds from the recommendations and supporting information supplied by the committee, or from any other available information, that modification, suspension, or termination of any such designation will tend to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such designation.

(2) The Secretary may designate separately for each varietal type of raisins acquired by handlers in any crop year, the percentages which shall be considered as free tonnage, reserve tonnage, and surplus tonnage, respectively.

(3) The Secretary shall notify the committee promptly of each such percentage so fixed. The committee, in turn, shall give prompt notice thereof to producers, dehydrators, and handlers, including, but not necessarily limited to, written notice by registered mail to each handler of whom the committee has a record.

(d) *Free tonnage.* The percentage of raisins acquired by a handler, which is designated as free tonnage, may be disposed of by him free of any restrictions hereunder, except for the keeping of records and the filing of reports pursuant to § 989.5, and the payment of assessments pursuant to § 989.6.

(e) *Reserve and surplus tonnage generally.* (1) Reserve and surplus tonnages acquired by each handler shall be held by him for the account of the committee, and subject to the applicable restrictions hereof.

(2) Each handler shall hold in storage all reserve and surplus tonnage acquired by him until he has been relieved of such responsibility by the committee, either by delivery to the committee, or otherwise. Such handler shall store such reserve and surplus tonnage in such a manner as will maintain the raisins in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, and except for loss through fire, acts of God, force majeure, or other conditions beyond the handler's control. The committee may, after giving reasonable notice, require a handler to deliver to it, or to any one designated by it, at such handler's warehouse or at such other place as the raisins may be stored, part or all of the reserve tonnage or surplus tonnage raisins held by him. The committee may require that such delivery consist of natural condition raisins, or it may arrange for such delivery to consist of packed raisins.

(3) Each handler shall have in his possession, or under his control, at all times, a quantity of raisins equal to the aggregate quantity of reserve and surplus tonnage referable to his acquisitions of raisins, less any quantity of such reserve or surplus tonnage delivered by him pursuant to instructions of the committee and any quantity of such tonnage acquired by him but subsequently sold to him by the committee: *Provided*, That the committee may defer, upon the written request of any handler and for good and sufficient cause, the meeting by such handler of such requirement for a specified period ending not later than November 15 of the particular crop year. As a condition to the granting of any such deferment, the committee shall require the handler to obtain and file with it a written undertaking that by the end of the deferment period he will have fully satisfied his obligation with respect to the holding or control by him of the reserve and surplus tonnages applicable to his acquisitions of raisins. Such undertaking shall be secured by a bond or bonds to be filed with and acceptable to the committee, with surety or sureties satisfactory to the committee, running in favor of the committee and the Secretary, and for an amount computed on the basis of the then current market value of the raisins in the quantity for which the deferment is granted. The cost of such bond shall be borne by the handler filing same. Any sums collected through default of a handler on his bond shall, after reimbursement of the committee for any expenses incurred by it in effecting collection, be deposited with the funds obtained by it from the disposition of the reserve and surplus pools and disbursed by it to producers as set forth in subparagraph (7) of this paragraph. In addition to the foregoing, the committee may establish other reasonable and necessary terms and conditions upon which such deferments may be granted.

(4) Reserve tonnage and surplus tonnage delivered by any handler to the committee, or to any person designated by it, whether in the form of natural condition raisins or packed raisins shall meet such minimum grade requirements as may be prescribed by the committee with the approval of the Secretary, which requirements for natural condition raisins shall be prescribed as soon as is reasonably practicable: *Provided*, That, pending the prescribing of such requirements, packed raisins shall meet the minimum grade requirements for the respective varieties and types set forth in Exhibit B, which is attached hereto and made a part hereof. Separate minimum grade requirements shall be prescribed by the committee for natural condition raisins and for packed raisins. Different minimum grade requirements may be established for reserve tonnage and for surplus tonnage, as well as for the individual varietal types in these tonnages. Such minimum grade requirements, when once put into effect, shall remain in effect unless and until they are modified, suspended, or terminated.

(5) In the event the committee offers reserve or surplus tonnage raisins to handlers for sale, or for contract packing, each handler shall be given the first opportunity to purchase or pack his share of the offer, which share shall be determined as the same proportion that the respective reserve or surplus tonnage held by him is of the respective reserve or surplus tonnage held by all handlers: *Provided*, That any reserve or surplus tonnage for which a deferment has been granted to a handler pursuant to the provisions and as authorized in sub-

paragraph (3) of this paragraph shall be included in his holdings of the respective reserve or surplus tonnage in determining his share. In the event that any handler declines or fails to purchase or contract for packing any or all of his share of any such offer, the remaining portion thereof shall be reoffered by the committee to all handlers who purchased or contracted for packing all of their respective shares of such offer, in proportion to their respective shares. Any quantity of reserve or surplus tonnage remaining unsold or not contracted for packing after a reoffer shall be withdrawn from the particular offer.

(6) Handlers shall be compensated for receiving, storing, and handling reserve and surplus tonnage held by them for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary.

(7) The committee shall have the authority, in its discretion, to obtain loans, nonrecourse or otherwise, on any part, or all, of the reserve tonnage or surplus tonnage, or both, and to pledge or hypothecate the raisins on which such loans are obtained as security therefor: *Provided*, That, in every such case, there shall be included in the loan agreement a provision to the effect that, in case the lender obtains possession or control of such raisins, he will dispose of them in such a manner as will not tend to defeat the objectives hereof. The net proceeds of any such loan shall be distributed by the committee to the respective producers, or their successors in interest, on the basis of the volome of their respective contributions to the pooled raisins of each varietal type on which the loan is obtained. The net proceeds from the disposition of reserve and surplus tonnages of raisins of each varietal type shall be distributed by the committee to the respective producers, or their successors in interest thereto, on the basis of the volume of their respective contributions to the reserve and surplus tonnages of such varietal type. Distribution of the proceeds in connection with the reserve and surplus tonnages contributed by a nonprofit cooperative marketing association which has authority to market the raisins of its members and to allocate the proceeds therefrom to such members shall be made to such association. Advance or progress payments may be made by the committee, in conformity with the provisions of this subparagraph, as sufficient funds become available.

(8) The committee may establish, from time to time, with the approval of the Secretary, additional procedures, not inconsistent with the provisions hereof, which are deemed necessary to effectuate the provisions of this paragraph and of paragraphs (f), (g), and (h) of this section.

(f) *Special provisions relative to reserve tonnage.* (1) The committee may sell reserve tonnage to handlers so as to provide them with the quantity which is needed to meet overall commercial trade requirements in the event that such requirements cannot be fulfilled by the total free tonnage: *Provided*, That no such sale of bleached raisins or Golden Bleached raisins shall be made prior to November 1 of the particular crop year, nor of other raisins prior to December 1 of such crop year. Any such quantities made available for such sale to handlers shall be offered to them pro rata as required by the provisions of subparagraph (5) of paragraph (e) of this section.

(2) Reserve tonnage of any varietal type shall not be sold at a price below that which the committee concludes reflects the average price received by producers for free tonnage of the same varietal type purchased by handlers during the current crop year up to the time of any offer for sale of reserve tonnage by the committee, to which shall be added the costs incurred by the committee on account of the receiving, storing, insuring, and holding of said raisins. The committee shall file, by telegram or air mail letter, with the Secretary, five days prior to making any offer to sell reserve tonnage raisins, information relating to the quantity of raisins to be offered and the estimated price or prices at which such raisins are to be offered. The Secretary shall have the right to disapprove the making of such an offer or any price at which reserve tonnage raisins may be offered for sale.

(3) All reserve tonnage not disposed of by the committee prior to June 1 of any crop year shall, on June 1, and any reserve tonnage acquired between June 1 and the end of the crop year shall, at the time of acquisition, become surplus tonnage and subject to the provisions hereof relating to surplus tonnage.

(g) *Special provisions relating to surplus tonnage.* (1) The committee may dispose of surplus tonnage raisins by sale, gift, or otherwise: *Provided*, That such disposition shall be limited to outlets which the committee finds will not interfere with the normal marketing of raisins or raisin variety grapes. The committee shall dispose of: (i) All surplus tonnage held by it or for its account on March 1 of any crop year within 60 calendar days subsequent thereto; and (ii) any surplus tonnage raisins acquired between March 1 and the end of such crop year, or any reserve tonnage which becomes surplus tonnage during such period, within 60 calendar days after acquisition or after becoming surplus, as the case may be.

(2) The provisions of subparagraph (5) of paragraph (e) and of this paragraph shall not restrict, or be deemed to restrict, any sale of surplus tonnage by the committee to the United States Government or to any agency thereof, for school lunch and institutional feeding, export, domestic relief feeding, or other noncompetitive uses.

(h) *Substitution for Layer Muscats.* A handler may substitute an equal quantity of natural (sun-dried) Muscat or Valencia raisins for any portion or all of the reserve and surplus tonnage referable to his acquisitions of Layer Muscat raisins: *Provided*, That he shall have made arrangements satisfactory to each producer of the Layer Muscat raisins for such substitution. The handler shall report promptly to the committee any such substitution.

(i) *Damaged raisins.* As soon as practicable after the effective date hereof, the committee shall, with the approval of the Secretary, establish regulations and procedures to provide for the handling and disposition of that portion of the raisin production in any crop year which may be damaged substantially by rain or other natural causes. Such regulations and procedures may provide for, but are not limited to, the handling and disposition of such damaged raisins, free from any or all of the provisions hereof. Such regulations and procedures shall be put into operation in the event the committee concludes, and such conclusions are confirmed by the Secretary, that a portion of the raisin production has been damaged substantially and that it is necessary to invoke such regulations and procedures.

§ 989.5 *Reports and records*—(a) *Report of carryover.* Each handler shall, upon request of the committee, file promptly with the committee a certified report, of all natural condition raisins and packed raisins, separately, which were held by him on July 1 of any crop year, which report also shall show the quantity of each varietal type, and the locations thereof: *Provided*, That such report for the initial crop year hereunder shall, upon request of the committee, be filed as soon as practicable after the effective date hereof, and shall show the required information as of the effective date hereof.

(b) *Other reports.* Each handler shall file with the committee a certified report, for each week, showing, with respect to his acquisitions of each varietal type of raisins during the particular week covered by such report: (1) The total quantity acquired, (2) the reserve and surplus tonnages, separately, referable to his acquisitions of raisins; (3) the locations of such reserve and surplus tonnages; and (4) cumulative totals of such acquisitions from the beginning of the then current crop year to and including the end of the week for which the report is made. Each such weekly report shall be filed not later than Wednesday of the week following the week which is covered by such report. Upon request of the committee, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, the name and address of each person from whom he acquired raisins and the quantity of each varietal type of raisins acquired from each such person. Also, upon the request of the committee with the approval of the Secretary, each handler shall furnish to the committee such other information as may be necessary to enable the committee to exercise its powers and perform its duties hereunder.

(c) *Confidential information.* All reports and records furnished or submitted by a handler to the committee shall be received by, and at all times kept under the custody or control of, one or more employees of the committee, who shall disclose to no person, except the Secretary upon request therefor or to the committee in connection with its investigations of alleged violations, data or information obtained or extracted therefrom

which would constitute a trade secret or the disclosure of which might affect the trade position, financial condition, or business operations of the particular handler from whom received: *Provided*, That the committee may require such an employee to disclose to it, or to any person designated by it or by the Secretary, information and data of a general nature, compilations of data affecting handlers as a group, and any data affecting one or more handlers, so long as the identity of the individual handlers involved is not disclosed.

(d) *Records.* Each handler shall maintain such records of all raisins acquired by him as prescribed by the committee. Such records shall include, but not be limited to, the quantity of raisins of each varietal type acquired from each person and the name and address of each such person, total acquisitions, total sales, and total other disposition of each varietal type which he handles.

(e) *Verification of reports.* For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted at any such times to inspect such premises and any raisins held by such handler, and any and all records of the handler with respect to the holding or disposition of raisins by him. Each handler shall furnish all labor and equipment necessary to make such inspections. Each handler shall store raisins in a manner which will facilitate inspection, and shall maintain storage records which will permit accurate identification of raisins held by him or theretofore disposed of. Insofar as is practicable and consistent with the carrying out of the provisions hereof, all data and information obtained or received through checking and verification of reports shall be treated as confidential information.

§ 989.6 *Expenses and assessments*—(a) *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the committee (exclusive of direct expenses for the maintenance and disposition of the reserve tonnage and surplus tonnage), and the board. The recommendation of the committee as to these expenses for each such crop year, together with all data supporting such recommendation, shall be filed with the Secretary on or before July 15 preceding the crop year in connection with which such recommendation is made: *Provided*, That, with respect to the initial crop year hereunder, the committee shall file such recommendation and supporting data with the Secretary as soon as practicable after the effective date hereof. The funds to cover such expenses shall be obtained by levying assessments as hereinafter provided.

(b) *Assessments.* Each handler shall, with respect to all free tonnage acquired by him and all reserve tonnage sold to him pursuant to paragraph (f) of § 989.4, pay to the committee, upon demand, his pro rata share of the expenses (exclusive of direct expenses for the maintenance and disposition of the reserve tonnage and surplus tonnage) which the Secretary finds will be incurred, as aforesaid, by the committee during each crop year: *Provided*, That no assessment shall be levied on raisins produced prior to August 15, 1949. Each handler's pro rata share of such expenses shall be equal to the ratio between the total free tonnage acquired by such handler plus all reserve tonnage sold to him pursuant to paragraph (f) of § 989.4, during the applicable crop year, and the total free tonnage acquired by all handlers plus all reserve tonnage sold to all handlers pursuant to paragraph (f) of § 989.4, during the same crop year. The Secretary shall fix the rate of assessment to be paid by such handler on the basis of a specified rate per ton. At any time during or after a crop year, the Secretary may increase the rate of assessment to apply to all free tonnage acquired plus all reserve tonnage sold to handlers pursuant to paragraph (f) of § 989.4 during such crop year to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. In order to provide funds to carry out the functions of the committee and the board, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied hereunder against the respective handler during the crop year.

(c) *Accounting.* (1) If, at the end of any crop year, the assessments collected for such crop year exceed the expenses incurred with respect to such crop year, each handler's share of such excess shall be credited to him against the operations of the following crop year, unless such handler demands payment thereof, in which case his share shall be paid to him.

(2) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses.

(d) *Direct expenses of reserve and surplus tonnage operations.* The committee is authorized to incur such direct expenses as the Secretary finds are reasonable and are likely to be incurred by the committee in discharging its obligations, pursuant hereto, with respect to reserve and surplus tonnage. All such direct expenses shall be deducted from the proceeds obtained by the committee from the sale or other disposal of such reserve and surplus tonnage.

(e) *Funds.* All funds received by the committee pursuant to the provisions hereof shall be used solely for the purposes herein authorized and shall be accounted for in the manner herein provided. The Secretary may, at any time, require the committee and its members and alternate members to account for all receipts and disbursements.

§ 989.7 *Personal liability.* No member or alternate member of the committee or any employee or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any person, for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty.

§ 989.8 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 989.9 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 989.10 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 989.11 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 989.12 *Effective time, termination or suspension*—(a) *Effective time.* The provisions hereof, as well as any amendments hereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or during suspension, in one of the ways hereinafter specified.

(b) *Suspension or termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions hereof, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any crop year whenever he finds that such termination is favored by a majority of the producers of raisin variety grapes, who, during a representative period determined by the Secretary, have been engaged in the production for market of raisin variety grapes in the State of California: *Provided*, That such majority have, during such representative period, produced for market more than 50 percent of the volume of such raisin variety grapes produced for market within said State; but such termination shall be effective only if announced on or before August 14 of the then current crop year.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all funds and property then in the possession or under the control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the joint trustees pursuant hereto.

(3) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said committee and upon said joint trustees.

§ 989.13 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person, with respect to any such violation.

§ 989.14 *Amendments.* Amendments hereto may be proposed from time to time, by any person or by the committee.

§ 989.15 *Counterparts.* This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.*

§ 989.16 *Additional parties.* After the effective date hereof, any handler may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.*

§ 989.17 *Order with marketing agreement.* Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of raisins in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.*

Filed at Washington, D. C., this 3d day of June 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

EXHIBIT A—PRODUCER MEMBERS OF THE RAISIN ADVISORY BOARD

One member for each of the following districts in Fresno County:

CLOVIS—DISTRICT NO. 1

All of T. 12 S., R. 20 E. in said county; all of T. 11 S., R. 20 E. in said county; all of T. 11 S., R. 21 E. in said county; all of T. 12 S., R. 21 E.; all of T. 12 S., R. 22 E.; Secs. 1, 2, 11, 12, 13, and 14 of T. 13 S., R. 20 E.; Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 of T. 13 S., R. 21 E.; and Secs. 4, 5, 6, 7, 8, 9, 18, 19, 30, and 31 of T. 13 S., R. 22 E.

KERMAN—DISTRICT NO. 2

All of T. 13 S., R. 14 E. in said county; all of T. 13 S., R. 15 E. in said county; all of T. 13 S., R. 16 E. in said county; all of T. 13 S., R. 17 E. in said county; Secs. 30 and 31 of T. 13 S., R. 18 E.; all of T. 14 S., R. 14 E.; all of T. 14 S., R. 15 E.; all of T. 14 S., R. 16 E.; all of T. 14 S., R. 17 E.; all of T. 14 S., R. 18 E.; the west two-thirds of T. 14 S., R. 19 E.; all of T. 15 S., R. 14 E.; all of T. 15 S., R. 15 E.; all of T. 15 S., R. 16 E.; all of T. 15 S., R. 17 E.; and all of T. 15 S., R. 18 E.

BIOLA—DISTRICT NO. 3

All of T. 13 S., R. 18 E. in said county, except Secs. 30 and 31; all of T. 12 S., R. 19 E. in said county; and all of T. 13 S., R. 19 E., except Secs. 25, 26, 27, 28, 33, 34, 35, and 36.

FRESNO—DISTRICT NO. 4

Secs. 25, 26, 27, 28, 33, 34, 35, and 36, T. 13 S., R. 19 E.; all of T. 13 S., R. 20 E., except Secs. 1, 2, 11, 12, 13, and 14; Secs. 19, 20, 29, 30, 31, and 32 of T. 13 S., R. 21 E.; the east one-third of T. 14 S., R. 19 E.; all of T. 14 S., R. 20 E.; and Secs. 5, 6, and 7 of T. 14 S., R. 21 E.

SANGER—DISTRICT NO. 5

The east one-half and Secs. 16, 17, 20, 21, 28, 29, 32, and 33, T. 13 S., R. 22 E.; all of T. 13 S., R. 23 E. lying north and west of the east channel of Kings River; all of T. 14 S., R. 23 E. lying west of the east channel of Kings River; and Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 35, and 36, T. 14 S., R. 22 E.

LONE STAR—DISTRICT NO. 6

All of T. 14 S., R. 21 E., except Secs. 5, 6, 7, and 36.

EASTON-OLEANDER—DISTRICT NO. 7

The north one-half of T. 15 S., R. 19 E.; the north two-thirds of T. 15 S., R. 20 E., except Sec 19; and Secs. 6, 7, 18, and 19, T. 15 S., R. 21 E.

FOWLER—DISTRICT NO. 8

The south one-half of Sec. 1, and Secs. 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 26, 27, 28, 29, and 33, T. 15 S., R. 21 E.; and Sec. 18, T. 15 S., R. 22 E.

DEL REY—DISTRICT NO. 9

Secs. 29, 30, 31, 32, 33, and 34, T. 14 S., R. 22 E.; Sec. 36, T. 14 S., R 21 E; the north one-half of Sec. 1, T. 15 S., R. 21 E.; and Secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, and 17, T. 15 S., R. 22 E.

PARLIER—DISTRICT NO. 10

All of Secs. 4, 9, 16, and 21 lying west of Kings River, and all of Secs. 5 and 6 lying west and south of Kings River, and Secs. 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32, T. 15 S., R. 23 E.; Secs. 1, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, 35, and 36, T. 15 S., R. 22 E.; and Secs. 5 and 6, T. 16 S., R. 23 E.

REEDLEY—DISTRICT NO. 11

All of T. 13 S., R. 24 E., lying east and south of the east channel of Kings River; all of T. 13 S., R. 23 E., lying east and south of the east channel of Kings River; all of T. 14 S., R. 23 E., lying east and south of the east channel of Kings River; T. 14 S., R. 24 E.; T. 14 S., R. 25 E., all of T. 15 S., R. 23 E., lying east of the east channel of Kings River; all of Secs. 28 and 29, T. 15 S., R. 23 E., lying west of Kings River; and T. 15 S., R. 24 E.

KINGSBURY—DISTRICT NO. 12

Secs. 11, 12, 13, 14, 15, 21, 22, 23, 27, 28, 33, T. 16 S., R. 22 E., and that portion of Sec. 34, T. 16 S., R. 22 E., lying within said county; Sec. 7, T. 16 S., R. 23 E., and those portions of Secs. 8 and 18, T. 16 S., R. 23 E., lying within said county; and those portions of Secs. 4, 5, 8, and 18, T. 17 S., R. 22 E., lying within said county.

SELMA—DISTRICT NO. 13

Secs. 25, 34, 35, and 36, T. 15 S., R. 21 E.; Secs. 19, 20, 28, 29, 30, 31, 32, 33, and 34, T. 15 S., R. 22 E.; Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 29, 30, 31, and 32, T. 16 S., R. 22 E.; the east one-half of T. 16 S., R. 21 E.; Secs. 1 to 23, both inclusive, T. 17 S., R. 21 E. and that part of Sec. 24, T. 17 S., R. 21 E., lying within said county; and Secs. 6, and 7, T. 17 S., R. 22 E.

MONMOUTH—DISTRICT NO. 14

Secs. 25, 26, 27, 34, 35, and 36, T. 15 S., R. 20 E., Secs. 30, 31, and 32, T. 15 S., R. 21 E.; and the west one-half of T. 16 S., R. 21 E.

CARUTHERS—DISTRICT NO. 15

The south one-half of T. 15 S., R. 19 E.; Secs. 19, 28, 29, 30, 31, 32, and 33, T. 15 S., R. 20 E.; T. 16 S., R. 15 E.; T. 16 S., R. 16 E.; T. 16 S., R. 17 E.; T. 16 S., R. 18 E.; T. 16 S., R. 19 E.; T. 16 S., R. 20 E.; T. 17 S., R. 16 E.; T. 17 S., R. 17 E.; T. 17 S., R. 18 E.; T. 17 S., R. 19 E.; T. 17 S., R. 20 E.; T. 18 S., R. 16 E.; T. 18 S., R. 17 E.; T. 18 S., R. 18 E.; T. 19 S., R. 17 E.; T. 19 S., R. 18 E.; T. 20 S., R. 17 E.; and all of T. 20 S., R. 18 E., lying within said county.

Three members for District No. 16 (Kings, Monterey, and San Benito Counties.)

Five members for District No. 17 (Tulare and Inyo Counties.)

Three members for District No. 18 (Kern, San Bernardino, Riverside, Imperial, San Diego, Orange, Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties.)

Three members for District No. 19 (Madera and Mono Counties.)

Three members for District No. 20 (Merced, Tuolumne, and Mariposa Counties.)

Three members for District No. 21 (Stanislaus, Santa Clara, San Francisco, San Mateo, Santa Cruz, Alameda, Contra Costa, Calaveras, and Alpine Counties.)

One member for District No. 22 (San Joaquin, Marin, Solano, Sacramento, Amador, Eldorado, Placer, Neveda, Sutter, Yolo, Napa, Sonoma, Mendocino, Lake, Colusa, Yuba, Sierra, Plumas, Butte, Glenn, Tehama, Shasta, Lassen, Modoc, Siskiyou, Del Norte, Humboldt, and Trinity Counties.)

EXHIBIT B—MINIMUM GRADE REQUIREMENTS FOR PROCESSED RAISINS

DEFINITION

Processed raisins are dried grapes of the Vinifera varieties—Thompson Seedless (Sul-

tanina), Muscat of Alexandria, Muscatel Gordo Blanco, Sultana, Black Corinth, or White Corinth—which have been properly stemmed, capstemmed, and cleaned.

TYPES AND VARIETIES

Type I Thompson Seedless (Sultanina):
(a) Unbleached (sun-dried).
(b) Sulfur Bleached and Golden Bleached.
(c) Soda Dipped.
Type II Muscat:
(a) Seeded (seeds removed).
(b) Unseeded (loose).
(c) Soda Dipped Unseeded (Valencia).
Type III Sultana.
Type IV Zante Currants:
(a) Black Zante (Black Corinth).
(b) White Zante (White Corinth).

MOISTURE

Type IIa (Muscat Seeded Raisins) shall contain not more than 19 percent, by weight, of moisture. All other types of raisins specified above shall contain not more than 18 percent, by weight, of moisture.

GRADE

Thompson Seedless raisins shall possess similar varietal characteristics, possess a fairly good typical color in Thompson Seedless Unbleached and Soda Dipped raisins, show development characteristic of raisins prepared from fairly well-matured grapes, and meet the following requirements:

Not more than 35 capstems and not more than three pieces of stem per pound of raisins may be present;

Not more than three percent by weight of raisins may be poorly developed, blowovers;

Not more than five percent by weight of raisins may be damaged;

Not more than 15 percent by weight of raisins may be visibly sugared; and

Not more than five percent by weight of raisins may be affected by mold, decay, fermentation, insect infestation (no live insects are permitted), imbedded dirt, or other foreign material: *Provided*, That not more than two percent by weight may be affected by decay.

Muscat raisins shall possess similar varietal characteristics, possess a fairly good typical color with not more than 20 percent by weight of dark reddish-brown berries in Muscat Soda Dipped Unseeded (Valencia) raisins, show development characteristic of raisins prepared from fairly well-matured grapes, and meet the following requirements:

Not more than 20 capstems and not more than three pieces of stem per pound of raisins may be presented;

Not more than 20 seeds per pound of raisins in Muscat Seeded raisins may be present;

Not more than three percent by weight of raisins may be poorly developed, blowovers;

Not more than five percent by weight of raisins may be damaged;

Not more than 15 percent by weight of raisins may be visibly sugared; and

Not more than five percent by weight of raisins may be affected by mold, decay, fermentation, insect infestation (no live insects are permitted), imbedded dirt, or other foreign material: *Provided*, That not more than two percent by weight may be affected by decay.

Sultana raisins shall possess similar varietal characteristics, possess a fairly good typical color, show development characteristic of raisins prepared from fairly well-matured grapes, and meet the following requirements:

Not more than 65 capstems and not more than three pieces of stem per pound of raisins may be present;

Not more than three percent by weight of raisins may be poorly developed, blowovers;

Not more than five percent by weight of raisins may be damaged;

Not more than 15 percent by weight of raisins may be visibly sugared; and

Not more than five percent by weight of raisins may be affected by mold, decay, fermentation, insect infestation (no live insects are permitted), imbedded dirt, or other foreign material: *Provided*, That not more than two percent by weight may be affected by decay.

Zante Currants shall be generally pliable, generally meaty and plump, fairly well developed, possess a good, typical color, and meet the following requirements:

Not more than two percent by weight of capstems and not more than three pieces of stem per pound may be present;

Not more than two percent by weight may be poorly developed, hard, immature berries, blowovers, or shells;

Not more than three percent by weight may be damaged;

Not more than 10 percent by weight may be visibly sugared; and

Not more than two percent by weight may be "B" berries.

COLOR OF THOMPSON SEEDLESS SULFUR BLEACHED AND GOLDEN BLEACHED RAISINS

Extra choice color. Fairly uniform amber color which may range from light yellow or greenish yellow to amber or greenish amber and with not more than 10 percent by weight of definitely dark berries.

EXPLANATION OF TERMS

"Capstems" means small woody stems exceeding one-eighth inch in length which attach the raisins to the branches of the bunch.

A "piece of stem" means a portion of the branch or main stem.

"Seeds" refer to the whole, fully developed seeds which have not been removed during the processing of Type II (a), Muscat Seeded raisins.

"Poorly developed, blowovers" refers to berries that are immature, contain very little meat, are light in weight, and those that have very coarse wrinkles.

"Damaged" raisins means raisins affected by insect injury or injury from sunburn, scars, mechanical or other means which seriously affects the appearance, edibility, keeping or shipping quality of the raisins. In Type II (a), Muscat Seeded raisins, mechanical injury resulting from normal seeding operations is not considered damage.

"Visibly sugared" means the accumulation of crystallized fruit sugars on or near the surface which is readily apparent.

"Mold" means mold filaments or spores (often characterized by a condition wherein the skin of the raisin appears to have been dissolved, leaving a slimy or sticky appearance, and often resulting in a positive reaction when submerged in a three percent hydrogen peroxide solution).

"Affected by insect infestation" means that the raisins show the presence of insects, insect fragments, or excreta. No live insects are permitted.

"Plump and meaty" means that the currants are not thin or angular with coarse wrinkles.

"'B' berries" means currants affected with mold or decay, which show a positive reaction when immersed in a three percent hydrogen peroxide solution.

The foregoing requirements are those specified in United States Standards for Grades of Processed Raisins, with respect to Grade C for raisins other than Zante Currants, and in United States Standards for Grades of Dried Zante Currants, with respect to Grade B for Zante Currants.

[F. R. Doc. 49-4618; Filed, June 7, 1949; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 1]

[Docket No. 9061]

HANDLING OF BROADCAST APPLICATIONS

ORDER SCHEDULING ORAL ARGUMENT

In the matter of revision of procedure relating to the handling of broadcast applications; Docket No. 9061.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 25th day of May 1949;

The Commission having under consideration written comments filed with respect to the notice of proposed rule making of February 21, 1949, relating to the handling of broadcast applications; and

It appearing that comments have been received requesting oral argument with respect to the proposals contained in said notice of proposed rule making;

It is ordered, That the Commission will hear said argument on June 27, 1949, at 10:00 a. m. in Room 6121, New Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-4615; Filed, June 7, 1949; 8:55 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1521044]

UTAH

NOTICE OF FILING OF EXTENSION SURVEY PLAT

MAY 31, 1949.

Notice is given that the plat of extension survey of lands hereinafter described will be officially filed in the Land and Survey Office at Salt Lake City, Utah effective at 10:00 a. m. on the 35th day after the date of this notice:

SALT LAKE MERIDIAN

T. 34 S., R. 4 E.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½W½, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 13, lots 1, 2, 3, 4, S½N½, S½;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, lots 1, 2, 3, 4, E½W½, E½;
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Sec. 20, all;

Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, lots 1, 2, 3, 4, E½W½, E½;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all.

The area described aggregates 21,629.89 acres.

Available data indicates that the character of the land is mountainous with a light clay soil interspersed with rock outcroppings.

No applications for these lands may be allowed under the homestead, small tract, desert land, or any other nonmineral public land laws unless the land has already been classified as available or suitable for such type of application or shall be so classified upon consideration of an application.

As shown on the plat of survey of T. 34 S., R. 4 E., S. L. M., there are two springs, one situated in the SE¼NE¼ sec. 9 and the other in the NE¼NE¼ sec. 29. There is also a water hole in the township situated in the SW¼NW¼ sec. 26.

The legal subdivision containing each of the springs and the water hole and the lands within a quarter of a mile of each spring and the water hole may be affected by the general withdrawal made by Executive Order of April 17, 1926 (43 CFR, 292.1), creating Public Water Reserve No. 107, but the question of whether each spring is of such size or value or so needed by the public as to bring the lands within the scope of the withdrawal is left for future determination.

At the hour and date specified above the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this notice shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this notice shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this notice, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this notice, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land and Survey Office, Salt Lake City, Utah, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land and Survey Office, Salt Lake City, Utah.

ROSCOE E. BELL,
Associate Director.

[F. R. Doc. 49–4599; Filed, June 7, 1949; 8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938 and section 1 (b) of the Walsh-Healey Public Contracts Act have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938 (sec. 14, 52 Stat. 1068; 29 U. S. C. 214) and Part 525 of the regulations issued thereunder (29 CFR, Cum. Supp., Part 525, amended 11 F. R. 9556), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR, Cum. Supp., 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

Goodwill Union Mission and Industries, 713 East Tuscarawas, Canton, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 30 cents per hour, whichever is higher, and a rate of not less than 5 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective June 1, 1949, and expires May 31, 1950.

Goodwill Industries of Dayton, Ohio, 201 West Fifth Street, Dayton, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 15 cents per hour, whichever is higher, and a rate of not less than 5 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective June 1, 1949, and expires August 31, 1949.

Detroit League for the Handicapped, 316 East Jefferson Avenue, Detroit 26, Michigan; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 15 cents per hour, whichever is higher, and a rate of not less than 5 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective June 1, 1949, and expires May 31, 1950.

Goodwill Industries of Detroit, 356 East Congress Street, Detroit, Michigan; at a wage rate of not less than the piece rate paid non-handcapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher, and a rate of not less than 3 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective June 1, 1949, and expires August 31, 1949.

Cleveland Rehabilitation Center, 2239 East 55th Street, Cleveland, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 10 cents per hour, whichever is higher, and a rate of not less than 5 cents for

each new client during his initial 4-week evaluation period in the workshop; certificate is effective June 1, 1949, and expires May 31, 1950.

New York Association for the Blind Bourne Workshop, 338 East 35th Street, New York, New York; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 40 cents per hour, whichever is higher, and a rate of not less than 40 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective May 31, 1949, and expires May 31, 1950.

The Industrial Home for the Blind, 520 Gates Avenue, Brooklyn, New York; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 10 cents per hour, whichever is higher, and a rate of not less than 10 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective June 6, 1949, and expires May 31, 1950.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 31st day of May 1949.

RAYMOND G. GARCEAU,
Director,
Field Operations Branch.

[F. R. Doc. 49-4605; Filed, June 7, 1949; 8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6217]

OHIO POWER CO. AND CINCINNATI GAS & ELECTRIC CO.

NOTICE OF APPLICATION

JUNE 1, 1949.

Notice is hereby given that on May 31, 1949, a joint applicaition was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by The Ohio Power Company (Ohio) and The Cincinnati Gas & Electric Company (Cincinnati), both corporations organized under the laws of the State of Ohio and doing business in said State with their respective principal business offices at Canton and Cincinnati, Ohio, seeking an order authorizing the sale by Ohio and the purchase by Cincinnati of a 132,000 volt wood pole transmission line of Ohio and the double width right of way used in connection therewith, approximately 21 miles in length, located in Warren and Butler Counties, Ohio. The consideration stated in the application to be paid therefor is $267,738.85, which is the estimated installed cost thereof, including right of way. The application further seeks the Commission's approval (if subject to its jurisdiction) of an agreement between Cincinnati and Ohio granting to Ohio the right and privilege to erect and maintain a 132,000 volt transmission line upon the southerly circuit space of the steel tower structures of Cincinnati extending from Cincinnati's Trenton Sub-station approximately 24.3 miles northwesterly through Butler and Preble Counties, Ohio, to the Indiana-Ohio State boundary line, and the right and privilege to install and maintain four 132,000 volt oil circuit breakers and their appurtenant equipment upon said Trenton Sub-station premises. The rights to be granted under said agreement would not constitute a lease of the property of Cincinnati, such agreement would grant to Ohio only the right and privilege to erect and maintain certain transmission facilites on the property of Cincinnati; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 22d day of June 1949, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commisson's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-4578; Filed, June 7, 1949; 8:46 a. m.]

[Docket Nos. G-1067, G-1177, G-1195]

EL PASO NATURAL GAS CO. ET AL.

ORDER OMITTING INTERMEDIATE DECISION PROCEDURE AND GRANTING ORAL ARGUMENT

JUNE 1, 1949.

In the matters of El Paso Natural Gas Company, Docket No. G-1177; San Juan Pipe Line Company, Docket No. G-1067; and Pacific Gas and Electric Company, Docket No. G-1195.

On May 16, 1949, El Paso Natural Gas Company, San Juan Pipe Line Company, and Pacific Gas and Electric Company filed a joint motion in the above-consolidated dockets to omit the intermediate decision procedure as permitted by § 1.30 (c) of the rules of practice and procedure of the Commission, and requested oral argument only before the Commission after the conclusion of the taking of testimony.

Applicants allege that the additional volumes of natural gas proposed to be transported are urgently needed by the consumers in the San Francisco and Bay Area of California, and if decision is delayed, it might be impossible to furnish such additional volumes beginning January 1, 1951. At the opening of the hearing this motion was received and no objection was made thereto by any of the parties in the aforesaid proceedings.

The Commission finds: Good cause exists for granting the motion and for oral argument before the Commission after the conclusion of the taking of testimony in the above-consolidated proceedings.

The Commission orders:

(A) The intermediate decision procedure in the consolidated proceedings, Docket Nos. G-1177, G-1067, and G-1195, be and the same hereby is omitted in accordance with the provisions of § 1.30 (c) of the Commission's rules of practice and procedure.

(B) Oral argument be had before the Commission in the said consolidated proceedings in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., at a time to be hereafter fixed by the Examiner.

Date of issuance: June 2, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-4577; Filed, June 7, 1949; 8:46 a. m.]

[Docket No. G-1212]

CHICAGO DISTRICT PIPELINE CO.

NOTICE OF APPLICATION

JUNE 2, 1949.

Notice is hereby given that on May 26, 1949, an application was filed with the Federal Power Commission by Chicago District Pipeline Company (Applicant), an Illinois corporation with its principal office at Joliet, Illinois, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of facilities for the liquefaction, storage and regasification of natural gas which will increase the supply of natural gas available to Applicant during peak load and emergency periods.

The application proposes the construction of a plant for the liquefaction of natural gas, separation and recovery of butane and propane, removal of nitrogen, storage of natural gas in liquid form at a temperature below boiling point, and at substantially atmospheric pressure, and for regasification of the liquid natural gas and return to the natural gas transmission system at suitable pressure for peak load and emergency use.

The application states that the plant is to have a capacity for liquefying approximately 4,000 Mcf of natural gas per day, storage capacity for 400,000 Mcf of natural gas, and facilities for regasification and return to the transmission system at the rate of 6,000 Mcf per hour.

The application further states that the plant facilities will include liquefaction equipment consisting of engine-driven compressors totalling 5,500 horsepower for compressing natural gas received from the transmission system and propane, ethylene, methane and nitrogen as refrigerants, together with gas cleaning and conditioning equipment, heat exchangers, water circulating pumps, etc. The storage equipment proposed to be constructed will consist of six suitably insulated storage holders, each of approximately 67,000 Mcf capacity for natural gas in liquid form, with inner containers of a copper-nickel alloy and with outer shells of steel plate. Regasification equipment will consist of pumps, heat exchangers, water heating equipment to provide heat for regasifying liquid natural gas and returning the gas to the transmission system.

The application also states that the foregoing equipment, and the regasification equipment and the entire plant is to be located on a site to be acquired, consisting of 320 to 640 acres in an isolated location, so far as other structures and dwellings are concerned, along the route of Applicant's pipelines. A 24-inch pipeline is proposed to be constructed from Applicant's pipeline to the proposed storage plant through which natural gas will be transported for liquefaction and storage and after regasification returned to Applicant's transmission system.

Applicant estimates that all of the storage capacity of the facilities proposed to be initially provided will be contracted for by customers of Applicant.

The estimated total over-all capital cost of the facilities to be initially provided is $6,000,000, the funds for which the Applicant proposes to borrow from The Peoples Gas Light and Coke Company, which owns all of Applicant's outstanding securities.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such a request.

The application of Chicago District Pipeline Company is on file with the Commission and open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-4576; Filed, June 7, 1949; 8:46 a. m.]

FEDERAL TRADE COMMISSION

[Docket No. 5515]

FOLEY & CO. AND A. M. SALOMON

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 2d day of June A. D. 1949.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Randolph Preston, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin on Monday, June 20, 1949, at two o'clock in the afternoon of that day (e. s. t.), in Room 337, Post Office Building, Richmond, Virginia.

Upon completion of the taking of testimony and the receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue a recommended decision which shall include recommended findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate recommended order; all of which shall become a part of the record in said proceeding.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 49-4603; Filed, June 7, 1949; 8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1100]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

The Detroit Stock Exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, No Par Value, of Consolidated Edison Company of New York, Inc., a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 29, 1949, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 49-4590; Filed, June 7, 1949; 8:48 a. m.]

[File No. 7-1101]

ERIE RAILROAD CO.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

The Detroit Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, No Par Value, of Erie Railroad Company, a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 29, 1949, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 49-4591; Filed, June 7, 1949; 8:49 a. m.]

[File No. 7-1103]

McCORD CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

The Detroit Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, $3.00 Par Value, of McCord Corporation, a security listed and registered on the New York Curb Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 29, 1949, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 49-4592; Filed, June 7, 1949; 8:49 a. m.]

[File No. 7-1104]

NATIONAL DISTILLERS PRODUCTS CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

The Detroit Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, No Par Value, of National Distillers Products Corporation, a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 29, 1949, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 49-4593; Filed, June 7, 1949; 8:49 a. m.]

[File No. 7-1105]

HIRAM WALKER GOODERHAM & WORTS, LTD.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

The Detroit Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, No Par Value, of Hiram Walker Gooderham & Worts, Limited, a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 29, 1949, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 49-4594; Filed, June 7, 1949; 8:49 a. m.]

[File No. 7-1102]

GREYHOUND CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

The Detroit Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, $3.00 Par Value, of The Greyhound Corporation, a security listed and registered on the New York Stock Exchange and the San Francisco Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 29, 1949, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 49-4589; Filed, June 7, 1949; 8:48 a. m.]

[File Nos. 54-25, 59-11, 59-17]

UNITED LIGHT AND RAILWAYS CO. ET AL.

ORDER GRANTING AND PERMITTING APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

In the matter of The United Light and Railways Company, American Light & Traction Company et al.; File Nos. 59-11, 59-17, 54-25.

The United Light and Railways Company ("Railways"), a registered holding company, having filed an application-declaration and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("act"), and the rules and regulations promulgated thereunder, with respect to the following transactions:

On December 30, 1947, the Commission entered an order approving a plan filed pursuant to the provisions of section

11 (e) of the act by Railways and American Light & Traction Company ("American Light"), which plan provides, among other things, that Railways, by two separate sales, shall offer to its common stockholders the right to purchase all common stock of American Light owned by Railways at $12 per share (or such lower prices as may be fixed by the Board of Directors of Railways) on the basis of one share of American Light common stock for each five shares of Railways' common stock owned. By order dated February 7, 1949, the Commission approved an application-declaration covering the first of such offerings pursuant to which 634,667 shares of common stock of American Light were distributed. Railways presently owns 634,031 shares of the common stock of American Light and now proposes to complete the divestment of its interest in American Light through a second such rights offering and in connection therewith to issue transferable warrants evidencing such rights. It is estimated that the proceeds from such second offering of common stock of American Light will amount to $7,500,000 after the payment of expenses incurred in connection with such sale and, in accordance with the provisions of the plan and the terms of Railways' outstanding loan agreements, the net proceeds, to the extent necessary, will be applied to the payment of the balance of Railways' bank loan indebtedness presently outstanding in the amount of $4,744,047.64 under its loan agreement dated November 24, 1945. The excess of such proceeds remaining after the payment of such indebtedness will be applied either to the reduction of the outstanding bank loan indebtedness of Continental Gas and Electric Corporation, a registered holding company subsidiary of Railways, or be used to increase Railways' investment in the equity of Iowa Power and Light Company or St. Joseph Light and Power Company, operating subsidiaries of Continental Gas and Electric Corporation.

Subject to necessary authorization by the Commission, shares of stock of American Light not disposed of through the exercise of rights are to be sold either at public or private sales as may hereafter be determined at such price as may then be obtainable. The proceeds from such sales, after deducting an amount equal to $12 per share, and expenses in connection with such sale, are to be distributed pro rata to the registered holders, on the record date, of warrants representing rights not exercised.

Said application-declaration having been filed May 6, 1949, and the last amendment thereto having been filed May 31, 1949, and notice of said filing having been duly given in the manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for a hearing with respect to said application-declaration, as amended, within the period specified, or otherwise, and not having ordered a hearing thereon; and

Said application-declaration, as amended, stating that fees and expenses to be incurred in connection with the proposed transactions are estimated at an aggregate of $110,000, including the fees of Bankers Trust Company in the amount of $24,300 and expenses of $6,500 for the handling of subscriptions, matching fractional warrants and acting as transfer agent, accountant's fee of $12,500 payable to Arthur Andersen & Co., counsel fees aggregating $12,250 payable $10,000 to Sidley, Austin, Burgess & Harper, $250 to Miller, Mack & Fairchild, $1,500 to Dyer, Angell, Meek & Batten and $500 to Clifford B. Longley, engineering fee of $2,500 payable to Ralph E. Davis, and $3,500 payable to the system service company, The United Light and Railways Service Company, and it appearing that the record is incomplete with respect to the fees payable to Sidley, Austin, Burgess & Harper and to Arthur Andersen & Co., and that the other fees are not unreasonable if they do not exceed the estimates; and

Applicant-declarant having requested that the Commission enter an order to become effective upon its issuance granting and permitting said application-declaration to become effective, and having also requested that such order contain appropriate recitals conforming to the requirements of Supplement R and section 1808 (f) of the Internal Revenue Code, as amended; and

The Commission finding with respect to the application-declaration, as amended, that the requirements of the applicable provisions of the act and the rules and regulations thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration, as amended, be granted and permitted to become effective, subject to a reservation of jurisdiction with respect to the payment of fees to Sidley, Austin, Burgess & Harper and to Arthur Andersen & Co., and the Commission further deeming it appropriate to grant applicant-declarant's request that said order contain appropriate recitals conforming to the requirements of Supplement R and section 1808 (f) of the Internal Revenue Code, as amended, and to grant applicant-declarant's request for acceleration of the effective date of this order:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed by Rule U-24, that the application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject, however, to a reservation of jurisdiction with respect to the fees payable to Sidley, Austin, Burgess & Harper and to Arthur Andersen & Co.

It is further ordered and recited, That the following steps and transactions involved in the consummation of the plan of Railways and American Light under section 11 (e) of the act, heretofore approved by order of the Commission entered on December 30, 1947, are necessary or appropriate to the integration or simplification of the holding company system of which Railways is a member and are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935:

1. The issuance by Railways to its common stockholders of the transferable warrants described in Application No. 12, as amended, in response to the Commission's order of December 30, 1947, filed by Railways in these proceedings, evidencing rights to purchase 634,667 shares of common stock of American Light of the par value of $25 per share, at the price of $12 per share, on the basis of one share of common stock of American Light for each five shares of common stock of Railways owned; and the receipt and sale or exercise of such warrants and the rights thereby evidenced by such common stockholders;

2. The sale and transfer by Railways, pursuant to the aforesaid rights, of a maximum of 634,667 shares of the common stock of American Light (634,031 shares out of Certificate Nos. NX1018 for 552 shares, NX1362 for 558,864 shares, and NX1484 for 74,615 shares, plus such additional shares as Railways may find it necessary to acquire for the purposes of such offering); and

3. The sale and transfer by Railways, at public or private sale, of any of the said 634,031 shares of common stock of American Light now owned by Railways in respect of which the aforesaid rights shall not be exercised.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4585; Filed, June 7, 1949; 8:48 a. m.]

[File No. 70-2095]

GENERAL PUBLIC UTILITIES CORP. AND STATEN ISLAND EDISON CORP.

SUPPLEMENTAL ORDER GRANTING AND PERMITTING APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 2d day of June 1949.

General Public Utilities Corporation ("GPU"), a registered holding company, and its electric utility subsidiary, Staten Island Edison Corporation ("Edison"), having filed a joint application-declaration, with amendments thereto, under the Public Utility Holding Company Act of 1935 with respect to, among other things, the issuance and sale by Edison, pursuant to the competitive bidding provisions of Rule U-50, of $2,750,000 principal amount of first mortgage bonds due 1979 and 40,000 shares of preferred stock; and

The Commission having, by order dated May 24, 1949, granted said application and permitted said declaration to become effective, except that the issuance and sale of bonds and preferred stock were not to be consummated until orders of the Public Service Commission of the State of New York authorizing such issuances and sales, and the results of competitive bidding pursuant to Rule U-50, were made a matter of record in this proceeding and a further order issued, for which purpose jurisdiction was reserved; and

Jurisdiction also having been reserved in said order of May 24, 1949 in respect of the utilization of the proposed Unearned Surplus-Special account for certain purposes and in respect of fees and expenses of all counsel incurred in connection with the issuances and sales of securities therein proposed; and

Edison having filed a further amendment to the application-declaration in which it is stated that, in accordance with the permission granted by the said order of the Commission dated May 24, 1949, it offered such bonds for sale pursuant to the competitive bidding requirements of Rule U-50 and received the following bids:

	Interest rate	Price to company	Cost to company
	Percent		
Halsey, Stuart & Co., Inc....	2¾	101.289	2.8111
Lehman Bros.....	2¾	101.2314	2.8139
Kidder, Peabody & Co.....	2¾	101.111	2.8199
Otis & Co.....	2¾	101.0199	2.8244
Carl M. Loeb, Rhoades & Co. and Equitable Securities Corp.....	2¾	100.831	2.8337
W. C. Langley & Co.....	2¾	100.3111	2.8395

Said amendment having further stated that Edison has accepted the bid of Halsey, Stuart & Co., Inc., for the bonds as set forth above, and that the bonds will be offered for sale to the public at a price of 101.719% of their principal amount plus accrued interest, resulting in an underwriter's spread of .43% of the principal amount; and

Said amendment also including a copy of the order of the Public Service Commission of the State of New York authorizing the issuance and sale of the bonds at the price and interest rate set forth above; and

The Commission having examined said amendment and having considered the record herein and finding no reason for imposing terms and conditions with respect to said matter:

It is ordered, That the application-declaration, as amended, be granted and permitted to become effective forthwith, and that the jurisdiction heretofore reserved over the issuance and sale of the bonds with respect to the results of competitive bidding, and order of the Public Service Commission of the State of New York, be, and the same hereby is, released, subject to the terms and conditions prescribed in Rule U-24 and to the other reservations of jurisdiction set forth in the order dated May 24, 1949.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4598; Filed, June 7, 1949; 8:50 a. m.]

[File No. 70-2124]

KEWANEE PUBLIC SERVICE CO. AND ILLINOIS POWER CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 27th day of May 1949.

Illinois Power Company ("Illinois"), a subsidiary of North American Light & Power Company, a registered holding company, and Illinois' subsidiary, Kewanee Public Service Company ("Kewanee"), have filed a joint declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("act"), particularly sections 12 (c) and 12 (f) thereof and Rules U-42 and U-45 promulgated thereunder, with respect to the following proposed transactions:

Kewanee has outstanding in the hands of the public $588,000 principal amount of First Mortgage Bonds and 5,504 shares of 7% Cumulative Preferred Stock, $50 par value; all of its outstanding Common Stock is owned by Illinois.

Illinois proposes to make a capital contribution to Kewanee in cash in an amount (not to exceed $200,000) which, together with Kewanee's treasury funds, will provide the necessary funds to redeem Kewanee's Preferred Stock, which is redeemable at any time on 60 days notice at $53 per share (or an aggregate of $291,712) plus accrued dividends.

The capital contribution is proposed to be credited by Kewanee to its Common Stock account, and dividends to the redemption date and redemption premiums on the Preferred Stock are to be charged by Kewanee to its earned surplus; an amount equal to the capital contribution is to be charged by Illinois to its investment in the Common Stock of Kewanee.

The Commission having heretofore found that an inequitable distribution of voting power existed in Kewanee and having ordered Kewanee on July 23, 1946, pursuant to section 11 (b) (2) of the act, to recapitalize on a basis of a single class of stock, namely common stock (without reference to its outstanding mortgage bonds), and declarants having stated that the retirement of Kewanee's Preferred Stock will eliminate the question of inequitable distribution of voting power, simplify Kewanee's capital structure, and eliminate Kewanee's annual Preferred Stock dividend requirement of $19,264; and

The Illinois Commerce Commission having by order authorized the proposed capital contribution; and

The said declaration and the amendments thereto having been duly filed and notice of the filing of the declaration having been duly given in the form and manner prescribed by Rule U-23 promulgated under the act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable provisions of the act and the rules promulgated thereunder are satisfied, and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed by Rule U-24, that the declaration, as amended, be and hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4596; Filed, June 7, 1949; 8:50 a. m.]

[File No. 70-2125]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN GAS & ELECTRIC CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June 1949.

Wisconsin Electric Power Company ("Wisconsin Electric"), a registered holding company, and its utility subsidiary, Wisconsin Gas & Electric Company ("Wisconsin Gas"), having filed a joint application-declaration and amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("act"), particularly sections 6, 7, 9 and 10 thereof and Rule U-43 of the rules and regulations promulgated thereunder with respect to the following proposed transactions:

Wisconsin Electric, the owner of all the presently outstanding Common Stock of Wisconsin Gas, proposes to buy and Wisconsin Gas proposes to issue and sell to Wisconsin Electric 50,000 additional shares of Common Stock, par value $20 per share, for $1,000,000. The proceeds are to be used by Wisconsin Gas for reimbursement of its treasury for capital expenditures heretofore made and for those to be made during the remainder of 1949 and for repayment of bank loans in the aggregate amount of $500,000, due June 15, 1949. Wisconsin Gas estimates that its capital expenditures for the last nine months of 1949 will be in excess of $1,600,000.

Said joint application-declaration having been filed on May 4, 1949, and an amendment thereto having been filed on May 17, 1949, notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for a hearing with respect to the application-declaration, as amended, within the period specified in said notice, or otherwise, and the Commission not having ordered a hearing thereon; and

The proposed issue and sale of additional Common Stock by Wisconsin Gas and the proposed acquisition of such stock by Wisconsin Electric having been duly authorized by the Public Service Commission of Wisconsin; and

The Commission finding that the proposed transactions satisfy the applicable standards of the act, and observing no basis for adverse findings, and the Com-

mission deeming it appropriate to grant and permit to become effective said joint application-declaration, as amended, and also deeming it appropriate to grant the request of the applicants-declarants that the order herein become effective upon the issuance thereof:

It is ordered, Pursuant to said Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed in Rule U-24, that said joint application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 49-4595; Filed, June 7, 1949; 8:49 a. m.]

[File No. 70-2130]

PUBLIC SERVICE CO. OF OKLAHOMA

SUPPLEMENTAL ORDER RELEASING JURISDICTION WITH RESPECT TO CERTAIN MATTERS AND GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 2d day of June A. D. 1949.

Public Service Company of Oklahoma ("Public Service"), a public utility subsidiary of Central and South West Corporation, a registered holding company, having filed an application, and amendments thereto, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, regarding the issuance and sale, pursuant to the competitive bidding requirements of Rule U-50, of 50,000 shares of a new series of ____% Preferred Stock, cumulative, par value $100 per share; and

The Commission by order dated May 25, 1949, having granted said application, as amended, subject to the condition that the proposed issuance and sale of preferred stock by Public Service should not be consummated until the results of competitive bidding, pursuant to Rule U-50, had been made a matter of record in these proceedings and a further order entered by the Commission in the light of the record so completed, jurisdiction being reserved for this purpose; and

Public Service, on June 1, 1949, having filed a further amendment to its application setting forth the action taken by it to comply with the requirements of Rule U-50, and stating that pursuant to the invitation for competitive bids the following bids for the preferred stock have been received:

Bidding group headed by—	Dividend rate	Price per share to company	Annual cost to company
	Percent		*Percent*
Harriman Ripley & Co., Inc., and Central Republic Co. (Inc.)	4.65	$100.689	4.61818
Smith, Barney & Co	4.65	100.15	4.64303
Kuhn, Loeb & Co	4.70	100.95	4.65577
Glore, Forgan & Co	4.70	100.372	4.68258

Said amendment having further stated that Public Service has accepted the bid of Harriman Ripley & Co., Incorporated, and Central Republic Company (Incorporated), as set out above, and that said preferred stock will be offered for sale to the public at $102.19 per share, resulting in an underwriter's spread of $1.50 per share; and

The Commission having examined the amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to said matters:

It is ordered, That the jurisdiction heretofore reserved with respect to the matters to be determined as a result of competitive bidding for said preferred stock be, and the same hereby is, released, and that said application, as further amended, be, and the same hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4586; Filed; June 7, 1949; 8:48 a. m.]

[File No. 70-2134]

PHILADELPHIA CO. AND DUQUESNE LIGHT CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 27th day of May 1949.

A joint application-declaration and amendments thereto having been filed with this Commission pursuant to sections 6 (a), 7, 9 (a), 10, 12 (b) and 12 (c) of the Public Utility Holding Company Act of 1935 ("act"), and Rules U-42 and U-45 of the general rules and regulations promulgated thereunder, by Philadelphia Company, a registered holding company and a subsidiary of Standard Gas and Electric Company and Standard Power and Light Corporation, both registered holding companies, and Duquesne Light Company ("Duquesne"), a subsidiary of Philadelphia Company, regarding the following proposed transactions:

By a lease dated January 1, 1902, Monongahela Light and Power Company ("Monongahela"), leased its electric properties and franchises to The Allegheny County Light Company ("Allegheny"), for a term of 900 years. On February 8, 1902, Philadelphia Company guaranteed to Monongahela the prompt payment of the rental under the lease and the faithful performance of the covenants of the lease. On May 11, 1927, Allegheny sold its properties and franchises, including its interest in said lease, to Duquesne, which assumed the obligations of Allegheny thereunder, Philadelphia Company agreeing with Monongahela that it would guarantee the prompt payment by Duquesne of the rental under the lease and the faithful performance by Duquesne of the lessee's covenants which include, inter alia: To pay interest on Monongahela's bonds; to pay rentals; to pay taxes, including income taxes; to pay insurance; to unite with Monongahela in the issue of new bonds for the purpose of taking up Monongahela's outstanding bonds at their maturity; and to pay interest on the new bonds of Monongahela, the lien of which, if issued, shall be superior to the rights of the lessee.

At the time of the execution of the lease, Monongahela had outstanding an issue of $1,700,000 face amount of First Mortgage Five Per Cent Bonds ("Bonds"), dated June 1, 1899, and maturing June 1, 1949. Said Bonds, which are presently outstanding in the amount of $1,698,000, are secured by a First Mortgage, dated June 1, 1899, from Monongahela to The Union Trust Company of Pittsburgh (now Mellon National Bank and Trust Company), Trustee. Fidelity Trust Company, of Pittsburgh, Pennsylvania, is the present Trustee under said First Mortgage, as successor Trustee thereunder to Mellon National Bank and Trust Company. Said First Mortgage is a first lien on the properties and franchises of Monongahela and is prior and paramount to Duquesne's leasehold interest therein.

The applicants-declarants state that most of the property described in the lease was dismantled many years ago in the course of operations because of obsolescence, or else was retired or replaced, and since neither Allegheny nor Duquesne ever made any segregation between the property covered by the lease and their own property, it is impossible to describe accurately the property now covered by the lease, a substantial part of which is stated to be represented by replacements included in the property account of Duquesne.

Philadelphia Company and Duquesne, neither of which owns any of the outstanding securities or voting stock of Monongahela, propose that Duquesne enter into an agreement with Monongahela and that Philadelphia Company assent to the execution of the agreement and guarantee Duquesne's performance thereunder. The agreement provides in substance, as follows:

1. Duquesne will purchase or cause to be purchased all of Monongahela's Bonds on or before June 1, 1949, paying therefor in cash the face amount thereof; or to deposit prior to June 1, 1949, with the Trustee under the Mortgage securing the Bonds, a sum of money equal to the face amount of all of the Bonds as shall not have been purchased by Duquesne. Duquesne will cause said sum of money to be applied by the Trustee to the purchase of the Bonds for the account of Duquesne on the presentation of the Bonds for payment, such Bonds not to be cancelled, but to be delivered by the Trustee to Duquesne to be held by Duquesne under and subject to the terms of the agreement.

2. Duquesne will not pledge or otherwise dispose of any of the Bonds so acquired, or permit the pledge or other disposal thereof, except as provided in the agreement.

3. Duquesne will not enforce, or permit to be enforced, any remedy under the Bonds or the Mortgage securing them.

4. Duquesne will indemnify and hold Monongahela harmless from any liability arising out of the Bonds or the Mortgage

because the Bonds shall not have been paid and the Mortgage shall not have been discharged on June 1, 1949, or on the extended maturity date of the Bonds hereinafter mentioned.

5. Duquesne will consent to the extension of the time of payment of the Bonds and of the performance of the conditions therein and in the Mortgage securing them to and until a date within a period of less than one year from the date of the agreement.

6. Duquesne will proceed to unite with Monongahela in the issue of new bonds for the purpose of taking up all of the Bonds, before their extended maturity date.

7. Duquesne will agree to perform its obligations under Monongahela's lease dated January 1, 1902, with respect to new Monongahela bonds and any future Monongahela bonds issued pursuant to said lease.

8. Duquesne will, upon receiving from Monongahela the proceeds from the sale of new bonds of Monongahela, (a) cause all of the presently outstanding Bonds of Monongahela to be delivered to the Trustee for cancellation so that the Mortgage may be satisfied of record, or (b) with respect to presently outstanding Bonds not so delivered, deposit with the Trustee, a sum of money equal to the face amount for the payment thereof.

Duquesne further states that it is presently negotiating for the purchase, subject to requisite regulatory approvals, of the outstanding stock of Monongahela. Duquesne represents that upon Monongahela becoming a subsidiary of Duquesne it contemplates that appropriate steps would be taken to convey in fee simple to Duquesne the aforementioned leased property, to terminate its lease from Monongahela and to dissolve Monongahela.

Applicants-declarants state that there is no regulatory body other than this Commission having jurisdiction over the proposed transactions.

Said joint application-declaration having been filed on May 9, 1949, and an amendment thereto having been filed on May 26, 1949, and notice of filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application-declaration within the period specified, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that the proposed transactions satisfy the applicable standards of the act, and observing no basis for adverse findings, and deeming it appropriate in the public interest and in the interest of investors and consumers to grant and permit to become effective said joint application-declaration, as amended, and also deeming it appropriate to grant the request of the applicants-declarants that the order herein become effective upon the issuance thereof:

It is ordered, Pursuant to said Rule U-23 and the applicable provisions of the act, that said joint application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4597; Filed, June 7, 1949; 8:50 a. m.]

[File No. 70-2153]

KANSAS POWER AND LIGHT CO. AND KANSAS ELECTRIC POWER CO.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 27th day of May 1949.

Notice is hereby given that a joint application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by The Kansas Power and Light Company ("Kansas Power") and its subsidiary, The Kansas Electric Power Company ("Kansas Electric"), both being subsidiaries of North American Light & Power Company ("Light & Power") and The North American Company ("North American"), both registered holding companies. Applicants-declarants have designated sections 6, 7, 9, 10, 12 (b), 12 (c) and 12 (d) of the act, and Rules U-43 and U-45 thereunder as applicable to the proposed transactions.

All interested persons are referred to said application-declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed, which may be summarized as follows:

North American is presently the sole stockholder of Light & Power, which owns all of the presently outstanding common stock of Kansas Power, which owns all of the presently outstanding common stock of Kansas Electric. Light & Power is now in process of liquidation and dissolution pursuant to the provisions of a plan under section 11 (e) of the act (Holding Company Act Release No. 7514) whereby North American is to receive the residual assets of Light & Power, including all of the common stock of Kansas-Power. North American has heretofore filed an application-declaration (File No. 70-2113) proposing the distribution by North American to its stockholders of the common stock of Kansas Power. Prior to that distribution by North American, Kansas Power and Kansas Electric propose by this filing to merge Kansas Electric into Kansas Power which will be the surviving corporation.

In addition to their system-held common stocks, Kansas Power and Kansas Electric have funded debt and preferred stock outstanding in the hands of the public. Under the agreement of merger, Kansas Power will assume the funded debt of Kansas Electric and will issue preferred stock in exchange for the outstanding preferred stocks of the two companies. It is proposed that if the merger is approved by this Commission it will thereafter be submitted to a vote of stockholders of each company as provided by Kansas law, which requires that the merger must be approved by the vote of the holders of two-thirds of the capital stock of each company. Light & Power's holdings represent 96.48% of the voting power of Kansas Power which, in turn, holds 73.93% of the voting power of Kansas Electric. It is not proposed to solicit consents to the merger from the preferred stockholders of either company and those who dissent from the merger are to have the rights prescribed by Kansas law.

Among other provisions, the agreement of merger provides the following:

1. In exchange for each of its presently outstanding 138,576 shares of Preferred Stock, 4½% Series, $100 par, Kansas Power will issue one share of preferred stock having the identical dividend rate, par value, redemption price and liquidation provisions of the stock being surrendered.

2. In exchange for each of Kansas Electric's presently outstanding 26,450 shares of Preferred Stock, 5% Series, $100 par, Kansas Power will issue one share of preferred stock having the identical dividend rate, par value, redemption price and liquidation provisions of the stock being surrendered.

3. Accrued dividends on the preferred stocks of the merging companies as of the date of merger will accrue in the same amounts on the preferred stocks of Kansas Power being issued in exchange therefor.

4. The agreement of merger, which will constitute Kansas Power's charter as the surviving corporation, contains protective provisions (heretofore more fully summarized in Holding Company Act Release No. 8984 in connection with a proposal to amend the existing charters of the two companies) dealing, among other things, with the voting rights of the holders of preferred stock upon default in preferred dividends, upon issuance of unsecured debt, on alteration of the rights of preferred stockholders, on increases in the amount of authorized preferred stock, on authorization of stock ranking prior to or on a parity with the preferred stock, on issuance and sale of additional preferred stock, and on merger or consolidation and providing for non-payment of common stock dividends except where specified capitalization ratios are met. The present charter provisions of Kansas Power, giving stockholders one vote per share of preferred and common stocks with the right to cumulate such votes in the election of directors, are continued in the agreement of merger, which also provides for preemptive rights for common stockholders.

5. The presently authorized 4,000,000 shares of common stock, $5 par value, of Kansas Power will be reclassified into 3,530,000 shares, $8.50 par value; and 2,143,158 shares of common stock, as thus reclassified, will be issued by Kansas Power in exchange for its presently outstanding 3,800,000 shares of common stock held by Light & Power. All shares of common stock of Kansas Electric in the treasury of either of the merging companies will be cancelled upon the merger becoming effective.

Kansas Power, which presently has another public utility subsidiary, Blue River Power Company, states that it intends to dispose of its interest in that company, and that after such disposition and the completion of the proposed merger, it will cease to be a holding company.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said application-declaration and that said application-declaration shall not be granted or permitted to become effective, except pursuant to further order of this Commission:

It is ordered, That a hearing on said application-declaration pursuant to the applicable provisions of the act and the rules of the Commission be held on June 16, 1949, at 10:00 a. m., e. d. s. t., at the offices of the Commission, 425 Second Street NW., Washington 25 D. C. On such date the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of the Commission on or before June 14, 1949, a request relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That James G. Ewell or any other officer or officers of this Commission designated by it for that purpose shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities having advised the Commission that it has made a preliminary examination of the application-declaration and that upon the basis thereof, the following matters and questions are presented for consideration, without prejudice to the presentation of additional matters and questions upon further examination:

(1) Whether the provisions of the agreement of merger, and, particularly, the treatment proposed to be accorded security holders of Kansas Power and Kansas Electric, meet all applicable requirements of the act and rules thereunder and are not detrimental to the public interest or the interest of investors or consumers;

(2) Whether the proposed acquisition of the assets of Kansas Electric by Kansas Power meets the requirements of section 10 of the act, and, particularly, sections 10 (c) (1) and 10 (c) (2) thereof;

(3) Whether the proposed issuance and sale of securities by Kansas Power meets the requirements of section 7 of the act;

(4) Whether the provisions of the merger agreement affecting the rights of holders of presently outstanding preferred and common stocks of Kansas Power and Kansas Electric satisfy the requirements of section 7 (e) of the act;

(5) Whether applicable provisions of section 12 of the act and the rules thereunder are satisfied;

(6) Whether the fees and expenses to be paid in connection with the proposed transactions are for necessary services and are reasonable in amount;

(7) Whether the accounting treatment proposed is proper and in accordance with sound accounting principles;

(8) Whether, generally, the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and rules thereunder, and whether modifications should be required or terms or conditions imposed with respect to any of the proposed transactions;

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve by registered mail a copy of this notice and order on Kansas Power, Kansas Electric, North American, the Corporation Commission of the State of Kansas, and the Federal Power Commission and that notice to all other persons shall be given by publication of this notice and order in the FEDERAL REGISTER and by general release of the Commission distributed to the press and mailed to the names on the mailing list for releases issued under the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-4587; Filed, June 7, 1949; 8:48 a. m.]

[File No. 70-2154]

MICHIGAN CONSOLIDATED GAS CO.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1949.

Notice is hereby given that a joint application-declaration, and amendments thereto, have been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), by Michigan Consolidated Gas Company ("Michigan Consolidated"), a public utility subsidiary of American Light & Traction Company, a registered holding company, and Austin Field Pipe Line Company ("Austin"), a subsidiary of Michigan Consolidated. The application-declaration, as amended, designates sections 6 (b), 12 (b), 12 (c) and 12 (f) of the act and Rules U-50 and U-42 promulgated thereunder as applicable to the proposed transactions.

All interested persons are referred to said application-declaration, as amended, which is on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Michigan Consolidated proposes to issue and sell at competitive bidding, pursuant to the provisions of Rule U-50, $25,000,000 principal amount of ____% Sinking Fund Debentures, due July 1, 1967. It is stated that the proceeds to be received by Michigan Consolidated from the issue and sale of the debentures, after deducting expenses in connection with the issue and sale thereof, are to be used (a) to pay, or to reimburse its treasury for amounts expended for the payment of, the principal amount (exclusive of interest) of its outstanding short-term notes aggregating $3,500,000, (b) to retire its outstanding preferred stock at the redemption price, aggregating $4,320,000 (exclusive of accrued dividends), (c) to advance on open account without interest to Austin funds for the retirement of Austin's bank notes, due December 31, 1951, outstanding in the principal amount of $7,250,000 and the payment of the prepayment premium applicable thereto, which notes Michigan Consolidated is obligated to purchase on demand at or after maturity, and (d) to provide funds for the expansion of Michigan Consolidated's facilities and to reimburse Michigan Consolidated's treasury for expenditures heretofore made for such purposes.

The debentures are to be dated July 1, 1949, and are to be issued under an indenture of the same date to the National Bank of Detroit, as Trustee. The interest rate on the debentures (which shall be a multiple of ⅛ of 1%) and the price to be received by Michigan Consolidated (which price, exclusive of accrued interest, shall not be less than 100% nor more than 102¾% of the principal amount of the debentures), are to be determined by competitive bidding.

The application-declaration, as amended, states that the proposed transactions are subject to the jurisdiction of the Michigan Public Service Commission and that the approval thereof by such Commission will be obtained and a copy of the order of approval filed by amendment to the application-declaration, as amended.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said application-declaration, as amended, and that said application-declaration, as amended, shall not be granted and permitted to become effective except pursuant to further order of the Commission:

It is ordered, That a hearing with respect to said application-declaration, as amended, pursuant to the applicable provisions of the act and the rules and regulations promulgated thereunder, be held on June 13, 1949, at 10:00 a. m., e. d. s. t., at the offices of the Commission, 425 Second Street NW., Washington 25, D. C. On such date the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held.

Any person desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of this Commission, on or before June 10, 1949, a written request with respect thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Edward C. Johnson, or any other officer or officers of this Commission designated by it for that purpose shall preside at such hear-

ing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to this Commission under section 18 (c) of the act, and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the application-declaration, as amended, and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice, however, to the specification of additional matters or questions upon further examination:

1. Whether the proposed issue and sale of debentures satisfies the standards of section 6 (b) of the act for an exemption from the provisions of sections 6 (a) and 7 of the act.

2. Whether any conditions should be imposed in the public interest or for the protection of investors or consumers under the provisions of section 6 (b) of the act in connection with the proposed issue and sale of debentures, and particularly whether any conditions should be imposed to assure that the indenture under which the debentures are to be issued shall contain adequate protective provisions, and, if so, what conditions should be imposed.

3. Whether the proposed transactions in all other respects comply with the applicable provisions of the act and rules, and, if not, what terms or conditions should be imposed in the public interest or for the protection of investors or consumers.

It is further ordered, That the Secretary of the Commission shall serve a copy of this notice and order by registered mail on applicant-declarant and on American Light & Traction Company, Michigan Public Service Commission and the Federal Power Commission, that notice of said hearing shall be given to all other persons by publication of this notice and order in the FEDERAL REGISTER and that a general release of this Commission with respect to this notice and order shall be distributed to the press and mailed to the mailing list for releases under the Public Utility Holding Company Act.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 49-4588; Filed, June 7, 1949; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 13259]

RENE C. SCHETTINI

In re: Stock owned by and debt owing to Rene C. Schettini, also known as Renato Schettini and as Rene Camille Jacques Schettini. F-28-29471-D-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Rene C. Schettini, also known as Renato Schettini and as Rene Camille Jacques Schettini, whose last known address is Okenstrasse 17, Offenburg, Baden, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Five (5) shares of $100.00 par value capital stock of American Telephone and Telegraph Company, 195 Broadway, New York 7, New York, a corporation organized under the laws of the State of New York, evidenced by certificate numbered R125843, and registered in the name of Rene C. Schettini, together with all declared and unpaid dividends thereon, and

b. That certain debt or other obligation owing to Rene C. Schettini, also known as Renato Schettini and as Rene Camille Jacques Schettini, by American Telephone and Telegraph Company, 195 Broadway, New York 7, New York, arising out of the sales of certain subscription rights, issued by said American Telephone and Telegraph Company, in the amount of $25.25, as of April 12, 1949, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 12, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 49-4606; Filed, June 7, 1949; 8:54 a. m.]

[Vesting Order 13294]

OTTO P. HAMANN

In re: Estate of Otto P. Hamann, deceased. File No. D-28-12458; E. T. sec. 16682.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Moritz, Fritz Hamann, and Bertha Laubitz, whose last known address was, on April 21, 1949, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany);

2. That the sum of $3,687.36 was paid to the Attorney General of the United States by Walter A. Olsen, executor of the estate of Otto P. Hamann, deceased;

3. That the said sum of $3,687.36 was accepted by the Attorney General of the United States on April 21, 1949, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of $3,687.36 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on acount of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof were not within a designated enemy country on April 21, 1949, the national interest of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 49-4607; Filed, June 7, 1949; 8:54 a. m.]

[Vesting Order 13295]

MRS. AUGUSTE HARTUNG ET AL.

In re: Rights of Mrs. Auguste Hartung et al. under Insurance Contract. File No. D-28-12130-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. Auguste Hartung, Mrs. Bertha (Berta) Bormann, and Mrs. Helena (Helene) Schildhelm, whost last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Mary Beiersdorf (a/k/a Marie Beiersdorf), deceased, who there is reasonable cause to believe are residents of Germany are nationals of a designated enemy country (Germany);

3. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 160833, issued by the Monumental Life Insurance Company, Baltimore, Maryland, to Otto C. Beiersdorf, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Mary Beiersdorf (a/k/a Marie Beiersdorf), deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4608; Filed, June 7, 1949; 8:54 a. m.]

[Vesting Order 13299]

LYDIA REISS ET AL.

In re: Rights of Lydia Reiss et al. under Insurance Contracts. Files Nos. D-28-11609-H-12, H-13, H-14.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lydia Reiss, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown of Gustav Reiss, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the net proceeds due or to become due under contracts of insurance evidenced by policies Nos. 719055, 719054 and 719053, issued by the Pacific Mutual Life Insurance Company, Los Angeles, California, to Christian F. Reihs, also known as Christian F. Reiss, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Gustav Reiss, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4609; Filed, June 7, 1949; 8:54 a. m.]

[Vesting Order 13301]

NOBORU TAKIGUCHI

In re: Rights of Noboru Takiguchi under Insurance Contract. File No. F-39-6085-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Noboru Takiguchi, who on or since the effective date of Executive Order 8389, as amended, and on or since December 8, 1941, has been a resident of Japan, is a national of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 166258, issued by the West Coast Life Insurance Company, San Francisco, California, to Noboru Takiguchi, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That the national interest of the United States requires that the said Noboru Takiguchi, be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4610; Filed, June 7, 1949; 8:54 a. m.]

[Vesting Order 13302]

NOBORU TAKIGUCHI

In re: Rights of Noboru Takiguchi under Insurance Contract. File No. F-39-6085-H-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Noboru Takiguchi, who on or since the effective date of Executive Order 8389, as amended, and on or since December 8, 1941, has been a resident of Japan, is a national of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 1,010,431, issued by the Sun Life Assurance Company of Canada, Montreal, Quebec, Canada, to Noboru Takiguchi, together with the right to demand, receive and collect said net proceeds (including without limita-

tion the right to proceed for collection against branch offices and legal reserves maintained in the United States),

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That the national interest of the United States requires that the said Noboru Takiguchi, be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4611; Filed June 7, 1949; 8:54 a. m.]

[Vesting Order 13317]

WALTER BRAUER

In re: Rights of Walter Brauer under Insurance Contract. File No. D-28-10976-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Walter Brauer, who on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany, is a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. G-256, certificate 139, issued by the Travelers Insurance Company, Hartford, Connecticut, to Rudolph A. Brauer, together with the right to demand, receive and collect said net proceeds,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That the national interest of the United States requires that the said Walter Brauer be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4612; Filed, June 7, 1949; 8:54 a. m.]

[Vesting Order 12709, Amdt.]

FRANK KANIS

In re: Estate of Frank Kanis, a/k/a Franz Kanis, deceased. File No. D-28-12194; E. T. sec. 16407.

Vesting Order 12709, dated January 26, 1949, is hereby amended as follows and not otherwise:

By deleting the words "Francis J. Mulligan, as administrator", wherever they appear in said vesting order, and substituting therefor the words "Treasurer of the City of New York, Municipal Building, New York, New York, as Depositary".

All other provisions of said Vesting Order Number 12709 and all action taken on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on May 24, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-4613; Filed, June 7, 1949; 8:55 a. m.]

[Vesting Order 13324]

JRMA BERTA UNKEL ET AL.

In re: Interests in oil, gas and other minerals in certain real property, claims and cash owned by Jrma Berta Unkel, and others.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Jrma Berta Unkel, Else Paula Unkel, Pauline Sophie Ottinger, Pauline Unkel Klopfer, whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. An undivided three hundred eighty-five (385) square feet interest in and to all of the oil, gas and other minerals in and under and that may be produced from certain lands situated in Oklahoma County, State of Oklahoma, particularly described as Parcel No. 1 of Exhibit A, attached hereto and by reference made a part hereof, together with any and all claims for rents, refunds, royalties, benefits or other payments arising from the ownership of such interest,

b. An undivided three eight-hundredths (3/800ths) interest in and to all of the oil, gas and other minerals in and under and that may be produced from that certain land situated in Oklahoma County, State of Oklahoma, particularly described as Parcel No. 2 of Exhibit A, attached hereto and by reference made a part hereof, for a term of 25 years from August 20, 1929 and as long thereafter as oil or gas or either of them is produced from said land, together with any and all claims for rents, refunds, royalties, benefits or other payments arising from the ownership of such interest,

c. That certain debt or other obligation owing to the persons named in subparagraph 1 hereof, by the Phillips Petroleum Company, Bartlesville, Oklahoma, arising out of unpaid royalties heretofore accrued in the name of William Unkel from the property described in subparagraphs 2-a and 2-b hereof, and any and all rights to demand, enforce and collect the same,

d. That certain debt or other obligation owing to the persons named in subparagraph 1 hereof, by the Davon Pipe Line Company, P. O. Box 1586, Oklahoma City 1, Oklahoma, arising out of unpaid royalties heretofore accrued in the name of Estate of William Unkel, deceased, from the property described in subparagraph 2-b hereof, and any and all rights to demand, enforce and collect the same,

e. Cash in the sum of $9.25, as of February 21, 1949, in the possession of the Attorney General of the United States, and deposited in Accounts Nos. 28-100693/6, together with all sums subsequently deposited therein which cash represents royalties heretofore paid to the Alien Property Custodian and the Attorney General of the United States from the property described in subparagraphs 2-a and 2-b hereof,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate

consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraphs 2-a and 2-b hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

There is hereby vested in the Attorney General of the United States the property described in subparagraphs 2–c to 2–e hereof, inclusive,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Parcel No. 1. In south one hundred forty feet (S 140 ft.) of lot twenty-six (26) block twenty-three (23) of Walnut Grove addition to Oklahoma City, Oklahoma, as shown by the recorded plat thereof.

Parcel No. 2. Lots four (4) and five (5) and south half (S½) of southeast quarter (SE¼) of section two (2), township eleven (11) north, range three (3) West I. M.

[F. R. Doc. 49–4556; Filed, June 6, 1949; 9:00 a. m.]

GEORGE AND LIZZIE HERRLEIN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

George Herrlein New York City, N. Y.; 5709; $620.43 in the Treasury of the United States.

Lizzie Herrlein Regensburg, American Zone, Germany; 5709; $620.43 in the Treasury of the United States.

Executed at Washington, D. C., on May 31, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49–4562; Filed, June 6, 1949; 9:01 a. m.]

SOCIETE D'ELECTRO-CHIMIE D'ELECTRO-METALLURGIE ET DES ACIERIES ELECTRIQUES D'UGINE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Societe d'Electro-Chimie d'Electro-Metallurgie et des Acieries Electriques d'Ugine, Paris, France; 5381; Property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent Nos. 1,826,552; 1,831,023; 1,985,308; 2,028,312; 2,033,172; 2,091,950; 2,147,205; 2,147,206; 2,193,365; 2,194,965; 2,206,562; 2,242,516; 2,246,133 and 2,255,844. Property described in Vesting Order No. 667 (8 F. R. 4996, April 17, 1943), relating to United States Letters Patent No. 1,585,716. Property described in Vesting Order No. 2633 (8 F. R. 17282, December 23, 1943), relating to United States Letters Patent Nos. 2,015,690; 2,015,691; 2,015,692; 2,015,693; 2,049,721; 2,050,460; 2,050,803; 2,087,580; 2,098,063; 2,100,264; 2,100,265; 2,123,658; 2,169,741; 2,188,416; 2,203,179; 2,207,109; 2,232,403; 2,246,144; 2,268,615; and 2,269,601. Property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942), relating to Patent Application Ser. Nos. 341,967 (now Patent No. 2,303,064); 197,725 (now Patent No. 2,310,865); 339,389 (now Patent No. 2,356,529); and 355,846. Property described in Vesting Orders 293 and 2633, relating to Patent Application Ser. No. 299,907 (now Patent No. 2,288,836).

All interests and rights created in Societe d'Electro-Chimie d'Electro-Metallurgie et des Acieries Electriques d'Ugine, to the extent owned by claimant immediately prior to the vesting thereof by Vesting Order No. 2633 by virtue of the following agreements (including all modifications thereof and supplements thereto, if any) relating, among other things, to U. S. Letters Patent No. 2,015,691: (a) an agreement dated May 15, 1936, by and between claimant and United States Steel Corporation; (b) an agreement dated June 15, 1936, by and between claimant and Bethlehem Steel Company; (c) an agreement dated November 18, 1936, by and between claimant and Republic Steel Corporation; (d) agreement dated November 24, 1936, by and between claimant and Youngstown Sheet and Tube Company; (e) agreement dated January 7, 1937, by and between claimant and Jones and Laughlin Steel Corporation.

All interests and rights created in Societe d'Electro-Chimie d'Electro-Metallurgie et des Acieries Electriques d'Ugine, to the extent owned by claimant immediately prior to the vesting thereof by Vesting Order No. 2695 (8 F. R. 17282, December 23, 1943), by virtue of the following agreements (including all modifications thereof and supplements thereto, if any) relating, among other things, to U. S. Letters Patent No. 1,924,028: (a) an agreement dated April 18, 1935, by and between claimant and Birdsboro Steel Foundry and Machine Company; (b) an agreement dated November 29, 1935, by and between claimant and Chambersburg Engineering Company; (c) an agreement dated May 1, 1936, by and between claimant and Vulcan Mold and Iron Company; (d) an agreement dated November 1, 1937, by and between claimant and Farrel-Birmingham Company, Inc.; (e) an agreement dated June 29, 1938, by and between claimant and General Railway Signal Company.

Any return of the property will be subject to the provisions of the Memorandum of Understanding between the Government of the United States of America and the Provisional Government of the French Republic dated May 28, 1946.

Executed at Washington, D. C., on June 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49–4564; Filed, June 6, 1949; 9:01 a. m.]